

EXHIBIT “N” (PART 4)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

EDWARD CARTER, FRANK FIORILLO,)
KEVIN LAMM, JOSEPH NOFI and)
THOMAS SNYDER,)

Plaintiffs,)

vs.) CV 07 1215

INCORPORATED VILLAGE OF OCEAN)
BEACH; MAYOR JOSEPH C. LOEFFLER)
JR., individually and in his)
Official capacity; former Mayor)
NATALIE K. ROGERS, individually)
and in her official capacity,)
OCEAN BEACH POLICE DEPARTMENT;)
ACTING DEPUTY POLICE CHIEF)
GEORGE B. HESSE, individually)
And in his official capacity;)
SUFFOLK COUNTY; SUFFOLK COUNTY)
POLICE DEPARTMENT, SUFFOLK)
COUNTY DEPARTMENT OF CIVIL)
SERVICE; and ALLISON SANCHEZ,)
Individually and in her)
Official capacity,)

Defendants.)
-----)

CONTINUED VIDEOTAPED DEPOSITION OF
GEORGE HESSE
Uniondale, New York
Monday, August 17, 2009

Reported by:
Philip Rizzuti
JOB NO. 24185

<p style="text-align: right;">Page 804</p> <p>1 2 3 August 17, 2009 4 10:22 a.m. 5 6 Continued videotaped deposition 7 of GEORGE HESSE, held at the offices 8 of Rivkin Radler, 926 Rexcorp Plaza, 9 Uniondale, New York, pursuant to 10 subpoena, before Philip Rizzuti, a 11 Notary Public of the State of New York 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 805</p> <p>1 2 A P P E A R A N C E S: 3 4 THOMPSON WIGDOR & GILLY, LLP 5 Attorneys for Plaintiffs 6 85 Fifth Avenue 7 New York, New York 10003 8 BY: ANDREW S. GOODSTADT, ESQ. 9 10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 11 Attorneys for George B. Hesse 12 530 Saw Mill Road 13 Elmsford, New York 10523 14 BY: KEVIN W. CONNOLLY, ESQ. 15 16 RIVKIN RADLER, LLP 17 Attorneys for Incorporated Village of 18 Ocean Beach, Joseph Loeffler, Natalie 19 Rogers and Ocean Beach Police Department 20 926 RexCorp Plaza 21 Uniondale, New York 11556-0926 22 BY: KENNETH A. NOVIKOFF, ESQ. 23 24 25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 806</p> <p>1 2 A P P E A R A N C E S: 3 4 RUDOLPH M. BAPTISTE, ESQ. 5 Assistant County Attorney 6 Suffolk County, State of New York 7 100 Veterans Memorial Highway 8 P.O. Box 6100 9 Hauppauge, New York 11788-0099 10 11 ALSO PRESENT: 12 JORDAN MUMMERT, Videographer 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 807</p> <p>1 Hesse 2 MR. NOVIKOFF: Would you mark as 3 Hesse Exhibit 29, complaint. 4 (Hesse Exhibit 29, complaint, 5 marked for identification, as of this 10:08:44 6 date.) 7 THE VIDEOGRAPHER: This is the 8 start of the tape labelled number 1 of 9 the continuation of George Hesse in the 10 matter of Carter and Fiorillo versus 10:21:20 11 Incorporated Village of Ocean Beach. The 12 date is August 17th. The time is 10:22 13 a.m., we are on the record. 14 G E O R G E H E S S E, called as a 15 witness, having been duly sworn by a 10:21:33 16 Notary Public, was examined and 17 testified as follows: 18 EXAMINATION BY 19 MR. NOVIKOFF: 20 Q. Good morning Mr. Hesse. 10:21:35 21 A. Good morning. 22 Q. How are you, welcome back for your 23 fourth day. Hopefully we will be out of here 24 by noon. Where I left off with you was we 25 were going to start going through some of the 10:21:42</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 808</p> <p>1 Hesse</p> <p>2 allegations in the complaint.</p> <p>3 In front of you is what has been</p> <p>4 pre-marked as Exhibit 29. I have left a copy</p> <p>5 of Deposition Exhibit 29 for all counsel. I 10:21:51</p> <p>6 would ask you to turn your attention to page</p> <p>7 9, paragraph 32. In paragraph 32 plaintiffs</p> <p>8 allege in part that you allowed your allies on</p> <p>9 the force to spend their shifts drinking at</p> <p>10 local bars while in uniform and officially on 10:22:28</p> <p>11 duty.</p> <p>12 Did you ever allow any officers to</p> <p>13 drink in local bars while in uniform and</p> <p>14 officially on duty?</p> <p>15 A. No. 10:22:39</p> <p>16 Q. Plaintiffs then go on to allege in</p> <p>17 paragraph 32 that you instructed other</p> <p>18 officers under your command including the</p> <p>19 plaintiffs to neglect their own duties in</p> <p>20 order to chauffeur their intoxicated 10:22:56</p> <p>21 colleagues both inside and out of Ocean Beach.</p> <p>22 Did you ever order the plaintiffs</p> <p>23 to chauffeur intoxicated police officers</p> <p>24 around Ocean Beach?</p> <p>25 A. No. 10:23:10</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 809</p> <p>1 Hesse</p> <p>2 Q. How about outside of Ocean Beach?</p> <p>3 A. No.</p> <p>4 Q. Paragraph 33 plaintiffs allege in</p> <p>5 part that you encouraged and enabled on-duty 10:23:18</p> <p>6 officers to drink alcohol in the police</p> <p>7 station.</p> <p>8 Sir, did you ever encourage or</p> <p>9 enable any on-duty officers to drink alcohol</p> <p>10 in the police station? 10:23:31</p> <p>11 A. No.</p> <p>12 Q. Plaintiffs allege that you would</p> <p>13 collect money to have these on-duty police</p> <p>14 officers have Rocket Fuel in the police</p> <p>15 station. 10:23:45</p> <p>16 Sir, did you ever collect money so</p> <p>17 that on-duty police officers could drink</p> <p>18 Rocket Fuel in the police station?</p> <p>19 A. No.</p> <p>20 Q. Let's look at paragraph 35. 10:23:55</p> <p>21 Plaintiffs allege in part that you hired</p> <p>22 civilians as police dispatchers.</p> <p>23 Did you, Mr. Hesse, hire civilians</p> <p>24 to be civil dispatchers?</p> <p>25 A. I didn't hire anybody at that 10:24:17</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 810</p> <p>1 Hesse</p> <p>2 time, no.</p> <p>3 Q. Paragraph 36. Plaintiffs allege</p> <p>4 that each one of them advised you on numerous</p> <p>5 occasions that the department and the village 10:24:30</p> <p>6 were left dangerously short of personnel while</p> <p>7 plaintiffs were assigned to chauffeur</p> <p>8 intoxicated officers and their civilian</p> <p>9 friends.</p> <p>10 Let me ask you this question, 10:24:42</p> <p>11 putting aside the fact as to whether or not</p> <p>12 you ordered anyone to chauffeur anyone, I</p> <p>13 think you have spoken about that, did any of</p> <p>14 the plaintiffs ever complain to you about the</p> <p>15 subject of they having to chauffeur anyone 10:24:55</p> <p>16 within or without of Ocean Beach?</p> <p>17 A. No.</p> <p>18 Q. Did they ever complain to you that</p> <p>19 anything you did left the village dangerously</p> <p>20 short of police personnel? 10:25:13</p> <p>21 A. Never.</p> <p>22 Q. Did they ever complain to you that</p> <p>23 they personally witnessed on-duty police</p> <p>24 officers drinking while in uniform in an Ocean</p> <p>25 Beach bar? 10:25:34</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 811</p> <p>1 Hesse</p> <p>2 A. Never.</p> <p>3 Q. Let's look at the next page,</p> <p>4 paragraph 39. Plaintiffs allege in part that</p> <p>5 you allowed uncertified officers to assign 10:25:49</p> <p>6 dock masters to cover their shifts at the</p> <p>7 Ocean Beach Police Department.</p> <p>8 Did you ever allow uncertified</p> <p>9 officers to assign dock masters to cover</p> <p>10 shifts at the Ocean Beach Police Department? 10:26:07</p> <p>11 A. Never.</p> <p>12 Q. Did you ever allow any officer to</p> <p>13 assign a dock master to cover shifts at the</p> <p>14 Ocean Beach Police Department?</p> <p>15 A. No. 10:26:19</p> <p>16 Q. Paragraph 40. Plaintiffs allege</p> <p>17 in part that you allowed uncertified officers</p> <p>18 to drink beer while patrolling in police</p> <p>19 vehicles.</p> <p>20 Assuming that it really doesn't 10:26:33</p> <p>21 matter whether someone is uncertified or</p> <p>22 certified with regard to drinking in police</p> <p>23 vehicles, let me ask you this question. Did</p> <p>24 you ever allow any officers to drink beer</p> <p>25 while patrolling in police vehicles? 10:26:44</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 A. Never.</p> <p>3 Q. Did any of the plaintiffs ever</p> <p>4 advise you that they were aware that any</p> <p>5 officer was drinking a beer in a police 10:26:51</p> <p>6 vehicle while on duty?</p> <p>7 A. Never.</p> <p>8 Q. Would you tell officers what types</p> <p>9 of beer to confiscate?</p> <p>10 A. No. 10:27:06</p> <p>11 Q. Did the plaintiffs ever complain</p> <p>12 to you about you -- about the subject of you</p> <p>13 confiscating beer improperly?</p> <p>14 A. No.</p> <p>15 Q. Did the plaintiffs ever complain 10:27:24</p> <p>16 to you about any officers drinking the</p> <p>17 confiscated beer?</p> <p>18 A. Never.</p> <p>19 Q. Paragraph 41. Plaintiffs allege</p> <p>20 that you instructed them to remove empty beer 10:27:43</p> <p>21 cans and other refuge that uncertified</p> <p>22 officers abandoned in their vehicles and left</p> <p>23 strewn about the police station after a night</p> <p>24 on duty.</p> <p>25 Did you ever instruct plaintiffs 10:27:58</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 to remove empty beer cans and other garbage</p> <p>3 left by any other officer in the police</p> <p>4 station?</p> <p>5 A. No. 10:28:08</p> <p>6 Q. Did they ever complain to you that</p> <p>7 they felt that they were required by you to</p> <p>8 pick up beer cans and garbage left by other</p> <p>9 officers in the police station?</p> <p>10 A. Never. 10:28:17</p> <p>11 Q. Let's go to paragraph 43. Did</p> <p>12 Officer Snyder -- well, in 43 Officer Snyder's</p> <p>13 complaint is alleging that on one or more</p> <p>14 occasions other officers took away his police</p> <p>15 radio phone. 10:28:39</p> <p>16 Did Snyder ever complain to you</p> <p>17 that any other officer would take away his</p> <p>18 emergency cell phone from him?</p> <p>19 MR. GOODSTADT: Objection.</p> <p>20 A. No. 10:28:50</p> <p>21 Q. Did Snyder ever complain to you</p> <p>22 that he felt that other officers were</p> <p>23 mistreating him?</p> <p>24 A. No.</p> <p>25 MR. GOODSTADT: Just note my 10:29:04</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Hesse</p> <p>2 objection to that as well.</p> <p>3 MR. NOVIKOFF: That question?</p> <p>4 MR. GOODSTADT: Yes.</p> <p>5 MR. NOVIKOFF: Okay. 10:29:09</p> <p>6 Q. Let's look at paragraph 43. Tell</p> <p>7 me when you are done reading it to yourself?</p> <p>8 A. Okay.</p> <p>9 Q. Did Officer Snyder ever complain</p> <p>10 to you about anything that is referenced 10:29:56</p> <p>11 within paragraph 43?</p> <p>12 A. No.</p> <p>13 Q. Read paragraphs 44 and 45 to</p> <p>14 yourself please and then tell me when you are</p> <p>15 done? 10:30:07</p> <p>16 A. Okay.</p> <p>17 Q. In now in paragraph 45 Mr.</p> <p>18 Fiorillo is alleging that you chided him in</p> <p>19 the presence of Lamm and Nofi with regard to</p> <p>20 his involvement in an altercation involving an 10:31:04</p> <p>21 intoxicated off-duty police officer.</p> <p>22 Did you ever chide Mr. Fiorillo</p> <p>23 with regard to his involvement in an incident,</p> <p>24 a physical altercation involving an off-duty</p> <p>25 police officer? 10:31:23</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 MR. GOODSTADT: Objection.</p> <p>3 Q. As referenced in 44 and 45?</p> <p>4 A. As reference to this, no.</p> <p>5 Q. Do you recall what Mr. -- do you 10:31:27</p> <p>6 have idea -- do you have an understanding as</p> <p>7 to what Mr. Fiorillo is referencing in</p> <p>8 paragraph 44 and 45?</p> <p>9 A. Yes.</p> <p>10 Q. Could you please tell me what he 10:31:35</p> <p>11 is referencing?</p> <p>12 A. He is referencing an incident that</p> <p>13 happened on the South Bay Water Taxi's. We</p> <p>14 got a call of a fight on the water taxi. The</p> <p>15 fight was between a Dr. Something Guida from 10:31:50</p> <p>16 the Good Samaritan Hospital, he was punching</p> <p>17 his girlfriend in the face, it was not Police</p> <p>18 Officer Walter Muller who he is talking about</p> <p>19 here.</p> <p>20 Walter Muller identified himself 10:32:07</p> <p>21 as a police officer, he was there with his</p> <p>22 wife, they were out to dinner that night. He</p> <p>23 was not intoxicated. He had taken police</p> <p>24 action. One of our civilian dock masters had</p> <p>25 jumped on the boat and because of Officer 10:32:19</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 816</p> <p>1 Hesse</p> <p>2 Fiorillo's actions that civilian also -- the</p> <p>3 dock master had gotten hurt.</p> <p>4 So when the incident was over we</p> <p>5 arrested Dr. Guido for harassment on that 10:32:30</p> <p>6 civilian dock master because the confrontation</p> <p>7 that they had between them. What happened</p> <p>8 later was as a group I yelled at everybody,</p> <p>9 especially the civilian dock master for</p> <p>10 getting involved in police action. 10:32:48</p> <p>11 Q. Who was the civilian dock master?</p> <p>12 A. Kenny Lappena.</p> <p>13 Q. And when you said because of Mr.</p> <p>14 Fiorillo's actions the dock master got hurt,</p> <p>15 what was Mr. Fiorillo's actions that you are 10:32:57</p> <p>16 referring to?</p> <p>17 A. What happened was because he put</p> <p>18 Officer Muller in a head lock and prevented</p> <p>19 him from restraining Dr. Guida, Dr. Guida was</p> <p>20 aggressive toward the civilian dock master and 10:33:14</p> <p>21 he got hurt.</p> <p>22 Q. So let me understand you</p> <p>23 correctly. Fiorillo put Muller in a head</p> <p>24 lock?</p> <p>25 A. Yes, he did. 10:33:23</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 817</p> <p>1 Hesse</p> <p>2 Q. Did you ever question Fiorillo as</p> <p>3 to why he did this?</p> <p>4 A. Yes.</p> <p>5 Q. And what did you ask him? 10:33:27</p> <p>6 A. He said he didn't recognize him.</p> <p>7 Q. But what did you ask him; before</p> <p>8 you tell me what Fiorillo said what</p> <p>9 specifically did you ask him if you can</p> <p>10 recall? 10:33:37</p> <p>11 A. I don't remember a specific</p> <p>12 question that I asked. But I made a statement</p> <p>13 that you better know your officers before you</p> <p>14 take action like that.</p> <p>15 Q. Is it usual for one officer to put 10:33:47</p> <p>16 another officer in a head lock?</p> <p>17 A. Of course not, and the other thing</p> <p>18 is Lamm and Nofi were not even on that night</p> <p>19 that I believe. I don't remember them being</p> <p>20 there. 10:33:57</p> <p>21 Q. Now where would there be a record</p> <p>22 of what nights, what shifts Lamm and Nofi</p> <p>23 worked in June of 2002?</p> <p>24 A. I am sure that the village has</p> <p>25 provided all the schedules. 10:34:09</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 818</p> <p>1 Hesse</p> <p>2 Q. Where would I find it?</p> <p>3 A. On the schedules or maybe copies</p> <p>4 of the blotters or something like that.</p> <p>5 Q. Where would there be a record of 10:34:15</p> <p>6 the arrest of Dr. Guida?</p> <p>7 A. That was definitely turned over.</p> <p>8 It is definitely in our files somewhere.</p> <p>9 Q. Let's look at paragraph 46 and 47</p> <p>10 and 48. Please read those and tell me when 10:34:34</p> <p>11 you are done?</p> <p>12 A. Okay.</p> <p>13 Q. In 46 Mr. Fiorillo is alleging in</p> <p>14 part that on one occasion you demanded of him</p> <p>15 to transport you to a party at a private 10:35:14</p> <p>16 residence in Ocean Beach.</p> <p>17 Did you ever demand that Mr.</p> <p>18 Fiorillo transport you to a private residence</p> <p>19 in Ocean Beach for the purpose of attending a</p> <p>20 party? 10:35:25</p> <p>21 A. No.</p> <p>22 Q. Did you ever ask him to transport</p> <p>23 you to a party on a private residence in Ocean</p> <p>24 Beach?</p> <p>25 A. Not that I recall. 10:35:32</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 819</p> <p>1 Hesse</p> <p>2 Q. Did you ever require Mr. Fiorillo</p> <p>3 to pick you up from a party at a private</p> <p>4 residence?</p> <p>5 A. No. 10:35:45</p> <p>6 Q. On Ocean Beach?</p> <p>7 A. No.</p> <p>8 Q. Let me ask you this question</p> <p>9 because I asked Mr. Paradiso a couple of</p> <p>10 questions. How long would it take to drive 10:35:56</p> <p>11 one of your police vehicles from the north to</p> <p>12 the south part of Ocean Beach?</p> <p>13 A. About two minutes.</p> <p>14 Q. How about from east and west</p> <p>15 within Ocean Beach? 10:36:06</p> <p>16 A. Ten blocks, and they are not</p> <p>17 regular blocks, there are maybe 200 feet</p> <p>18 between each block.</p> <p>19 Q. So taking a police vehicle from</p> <p>20 east to west, how long would it take to drive? 10:36:16</p> <p>21 A. A minute or two.</p> <p>22 Q. And north to south?</p> <p>23 A. The same.</p> <p>24 Q. In paragraph 47 Mr. Fiorillo makes</p> <p>25 some allegations concerning a known drug 10:36:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 820</p> <p>1 Hesse</p> <p>2 dealer, although he doesn't identify who the</p> <p>3 known drug dealer is anywhere in the</p> <p>4 complaint.</p> <p>5 Mr. Hesse, did Mr. Fiorillo ever 10:36:45</p> <p>6 inquire with you with regard to any</p> <p>7 relationship you have with a drug dealer?</p> <p>8 A. No.</p> <p>9 Q. Did you ever advise Mr. Fiorillo</p> <p>10 that you have as a close personal friend a 10:36:59</p> <p>11 drug dealer who lives in Ocean Beach?</p> <p>12 A. No.</p> <p>13 Q. Did you ever forbid Mr. Fiorillo</p> <p>14 from interfering with any drug dealer's</p> <p>15 activity in Ocean Beach? 10:37:16</p> <p>16 A. Never.</p> <p>17 Q. To your knowledge -- withdrawn.</p> <p>18 Let's go to paragraph 49. Did you</p> <p>19 ever require any of the plaintiffs to</p> <p>20 chauffeur you to various residences within 10:37:38</p> <p>21 Ocean Beach for non-police business?</p> <p>22 A. No.</p> <p>23 Q. How about outside of Ocean Beach?</p> <p>24 A. No.</p> <p>25 Q. Let's go to paragraph 50. Read 10:37:49</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 821</p> <p>1 Hesse</p> <p>2 paragraph 50 to yourself and advise me when</p> <p>3 you are done reading it.</p> <p>4 A. Okay.</p> <p>5 Q. Now in paragraph 50 it appears 10:38:16</p> <p>6 that Mr. Fiorillo is alleging in part that you</p> <p>7 interfered in the issuance of a summons by him</p> <p>8 to the son of a business owner in Ocean Beach.</p> <p>9 Do you have any recollection as to</p> <p>10 what Mr. Fiorillo is referring to in paragraph 10:38:35</p> <p>11 50?</p> <p>12 A. I have no idea.</p> <p>13 Q. Did you ever tear up a summons</p> <p>14 that Fiorillo issued to anybody in Ocean</p> <p>15 Beach? 10:38:44</p> <p>16 A. Never.</p> <p>17 Q. Let's please read 51 and tell me</p> <p>18 when you are done.</p> <p>19 A. Okay.</p> <p>20 Q. Did you ever instruct any of the 10:39:13</p> <p>21 plaintiffs not to issue summonses to any bar</p> <p>22 in Ocean Beach?</p> <p>23 A. No.</p> <p>24 Q. Did you ever advise any of the</p> <p>25 plaintiffs that certain bars should not be -- 10:39:25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 822</p> <p>1 Hesse</p> <p>2 withdrawn.</p> <p>3 Did any of the plaintiffs ever</p> <p>4 complain to you about you selectively</p> <p>5 enforcing the law? 10:39:43</p> <p>6 A. No.</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 Q. Please read 52 and 53 and tell me</p> <p>9 when you are done?</p> <p>10 A. Okay. 10:40:00</p> <p>11 Q. Now in 52 plaintiffs are alleging</p> <p>12 an incident involving Snyder and Lamm where</p> <p>13 they witnessed a down pure of beer falling at</p> <p>14 their feet. Do you see where they are</p> <p>15 referring to? 10:40:56</p> <p>16 A. Yes.</p> <p>17 Q. Let's look at 53. According to</p> <p>18 the plaintiffs in 53 you, Mr. Hesse, directed</p> <p>19 Officers Lamm and Snyder not to issue any</p> <p>20 citations or make any arrest with regard to 10:41:12</p> <p>21 these alleged under age individuals drinking</p> <p>22 alcohol in that apartment building.</p> <p>23 Did you ever direct Lamm and</p> <p>24 Snyder not to issue any citations or make any</p> <p>25 arrests to these youths who they say were 10:41:27</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 823</p> <p>1 Hesse</p> <p>2 breaking the law?</p> <p>3 A. No.</p> <p>4 Q. Did Lamm or Snyder ever relay the</p> <p>5 incident to you where they believed that beer 10:41:35</p> <p>6 was thrown at them?</p> <p>7 A. Yes.</p> <p>8 Q. What did they say to you?</p> <p>9 A. Tommy Snyder -- well I was called</p> <p>10 to the scene. Tommy Snyder said that some 10:41:45</p> <p>11 beer had dripped on him, I don't know if it</p> <p>12 was a down pure of beer, but I think he got a</p> <p>13 few drips on his head, because there was some</p> <p>14 intox kid dumping beer down the, I guess the</p> <p>15 slope of the roof and it dripped on to Officer 10:41:59</p> <p>16 Snyder.</p> <p>17 So when I received we went up</p> <p>18 there, we identified the kid, he was 21. His</p> <p>19 father happened to be a lieutenant in Nassau</p> <p>20 County PD. I asked Snyder what do you want me 10:42:14</p> <p>21 to do with this. He said let's just call the</p> <p>22 father, which we did, to let the father know</p> <p>23 what his son just did.</p> <p>24 We went up to the residence where</p> <p>25 the renter of the residence John was on the 10:42:29</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 824</p> <p>1 Hesse</p> <p>2 scene, I forget his last name. We wrote him a</p> <p>3 summons for noise. We did find a small pipe</p> <p>4 for smoking marijuana. There was not</p> <p>5 extensive drugs or drug paraphernalia there. 10:42:46</p> <p>6 There was one pipe that was sitting on a</p> <p>7 counter. There was some empty beer cans</p> <p>8 sitting around.</p> <p>9 I believe John had maybe his</p> <p>10 sister, younger sister and some of her friends 10:43:01</p> <p>11 there which none of them were seen drinking</p> <p>12 any alcohol, because I believe the officers</p> <p>13 had checked because I was dealing with John.</p> <p>14 I confiscated the pipe, I went out to the</p> <p>15 balcony so everybody could see and I threw the 10:43:19</p> <p>16 pipe into the bay. And that was the end of</p> <p>17 the story.</p> <p>18 Q. Now who was the police officer of</p> <p>19 Nassau County?</p> <p>20 A. I don't remember his name. 10:43:26</p> <p>21 Q. What was his title?</p> <p>22 A. He was a lieutenant, I remember</p> <p>23 him being a lieutenant.</p> <p>24 Q. Now you made reference to an</p> <p>25 extensive collection of illicit drug 10:43:38</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 825</p> <p>1 Hesse</p> <p>2 paraphernalia not being present in that</p> <p>3 apartment. You are referring to the</p> <p>4 allegation in paragraph 52 when the plaintiffs</p> <p>5 alleged that there was an extensive collection 10:43:52</p> <p>6 of such paraphernalia; correct?</p> <p>7 A. Yes.</p> <p>8 Q. It is your testimony that that</p> <p>9 allegation is incorrect?</p> <p>10 A. Correct. 10:43:59</p> <p>11 Q. And it is your position with</p> <p>12 regard to the incidents being described in 52</p> <p>13 and 53 that you asked Tommy Snyder what he</p> <p>14 wanted to do, and Snyder's response was to</p> <p>15 call the father? 10:44:17</p> <p>16 A. That is it.</p> <p>17 Q. Okay. Go to paragraph 54, please</p> <p>18 read it and tell me when you are done.</p> <p>19 A. Okay.</p> <p>20 Q. There has been some confusion 10:44:49</p> <p>21 among some of the witnesses who looked at this</p> <p>22 paragraph. Is 54 in your opinion still</p> <p>23 referring to the same evening in the same</p> <p>24 apartment that 52 and 53 are referring to?</p> <p>25 MR. GOODSTADT: Objection. 10:45:02</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 826</p> <p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. My opinion; it could be. I don't</p> <p>4 know.</p> <p>5 Q. Now did you ever prohibit the 10:45:05</p> <p>6 plaintiffs from investigating any crime that</p> <p>7 took place in that apartment that evening or</p> <p>8 any other evening?</p> <p>9 A. No.</p> <p>10 Q. Did you ever instruct any of the 10:45:16</p> <p>11 plaintiffs to stay away from that apartment</p> <p>12 and not investigate any alleged act of</p> <p>13 criminality?</p> <p>14 A. Never.</p> <p>15 Q. That night or any night 10:45:27</p> <p>16 afterwards?</p> <p>17 A. Never.</p> <p>18 Q. Now in the last sentence of</p> <p>19 paragraph 54 the plaintiffs allege as follows</p> <p>20 and I will quote this: Indeed on another 10:45:39</p> <p>21 occasion plaintiffs even observed certain of</p> <p>22 the uncertified officers on the apartment</p> <p>23 balcony drinking and socializing with the same</p> <p>24 group of minors. Close quote.</p> <p>25 Did any of the plaintiffs ever 10:45:58</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 827</p> <p>1 Hesse</p> <p>2 advise you that they ever saw any other</p> <p>3 officer drinking and socializing with anyone</p> <p>4 on the balcony of that apartment?</p> <p>5 A. Never. 10:46:12</p> <p>6 Q. Let's go to paragraph 55, please</p> <p>7 read it and tell me when you are done?</p> <p>8 A. Okay.</p> <p>9 Q. Did you ever encourage minors to</p> <p>10 abuse alcohol? 10:46:39</p> <p>11 MR. GOODSTADT: Objection.</p> <p>12 A. No.</p> <p>13 MR. NOVIKOFF: What is the</p> <p>14 objection, it is your allegation; in yet</p> <p>15 another instance of Hesse encouraging 10:46:46</p> <p>16 minors to abuse alcohol, so I am asking</p> <p>17 him. So what is the objection?</p> <p>18 MR. GOODSTADT: The allegation is</p> <p>19 encouraging. I don't know if he has the</p> <p>20 same definition that we would have. So 10:46:54</p> <p>21 object to the form.</p> <p>22 MR. NOVIKOFF: Because you don't</p> <p>23 think he has the same definition of what</p> <p>24 you have as encouraging?</p> <p>25 MR. GOODSTADT: Maybe. 10:47:05</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 828</p> <p>1 Hesse</p> <p>2 MR. NOVIKOFF: Okay, that is fine.</p> <p>3 Q. What is your definition of</p> <p>4 encouraging, Mr. Hesse?</p> <p>5 A. It could be that I permitted them 10:47:10</p> <p>6 or I actually handed them the beer and said</p> <p>7 drink it, drink it.</p> <p>8 Q. Under any definition that you may</p> <p>9 have as to the word encouraging did you ever</p> <p>10 encourage minors to abuse alcohol? 10:47:23</p> <p>11 A. No.</p> <p>12 Q. Did you ever encourage minors to</p> <p>13 drink alcohol?</p> <p>14 A. No.</p> <p>15 Q. Did you ever permit minors to 10:47:31</p> <p>16 drink alcohol in your presence?</p> <p>17 A. No.</p> <p>18 Q. Did you ever condone minors of</p> <p>19 drinking alcohol in your presence?</p> <p>20 A. No. 10:47:40</p> <p>21 Q. Did you ever tell any of the</p> <p>22 plaintiffs not to issue summonses to any</p> <p>23 minors that they found to be drinking alcohol?</p> <p>24 A. No.</p> <p>25 Q. Did you ever intervene when 10:47:48</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 829</p> <p>1 Hesse</p> <p>2 another officer issued a citation to any minor</p> <p>3 carrying a case of beer?</p> <p>4 A. No.</p> <p>5 Q. Did you ever -- are you aware of 10:48:01</p> <p>6 any incidents involving any officer issuing a</p> <p>7 citation to a minor carrying a case of beer?</p> <p>8 A. I know the incident that they are</p> <p>9 referring to.</p> <p>10 Q. In paragraph 55? 10:48:14</p> <p>11 A. Yes.</p> <p>12 Q. What is that incident?</p> <p>13 A. I believe we talked about it on</p> <p>14 one of my other days. There was a kid that</p> <p>15 works for CJ's. CJ's has an off premise 10:48:23</p> <p>16 license, they have an off premise sale</p> <p>17 license, and I believe he was delivering a</p> <p>18 case of beer to -- of course it is to the</p> <p>19 apartment where this other incident had taken</p> <p>20 place. But the kids were 21. He was 10:48:45</p> <p>21 delivering a case of beer. I don't remember</p> <p>22 if it was Lamm or Fiorillo who issued the</p> <p>23 summons to him. But I advised the kid bring</p> <p>24 the receipt, bring the license, a copy of the</p> <p>25 license, go to court, plead your case, he did, 10:49:02</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 830</p> <p>1 Hesse</p> <p>2 and it was dismissed.</p> <p>3 Q. So when you say the kid was 21,</p> <p>4 you are saying the kid who the beer was being</p> <p>5 delivered to? 10:49:10</p> <p>6 A. Correct. The kid that purchased</p> <p>7 the beer was 21.</p> <p>8 Q. Okay. So let me understand what</p> <p>9 happened. Some kid purchased -- the kid who</p> <p>10 was 21 purchased the case of beer from CJ's? 10:49:23</p> <p>11 A. Yes. He ordered it.</p> <p>12 Q. He ordered it?</p> <p>13 A. Yes.</p> <p>14 Q. And it was delivered to him?</p> <p>15 A. It was in the process of being 10:49:33</p> <p>16 delivered to him.</p> <p>17 Q. Who was delivering it to him?</p> <p>18 A. Some kid Paul, I can't think of</p> <p>19 the last name, he has been mentioned a couple</p> <p>20 of times. 10:49:39</p> <p>21 Q. Was this kid Paul a minor?</p> <p>22 A. He was 20.</p> <p>23 Q. He was delivering the beer to your</p> <p>24 knowledge on behalf of CJ's to the kid in the</p> <p>25 apartment who was 21? 10:49:50</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 831</p> <p>1 Hesse</p> <p>2 A. Correct.</p> <p>3 Q. Okay, now, was the citation issued</p> <p>4 to this Paul kid who was 20, or was the</p> <p>5 citation issued to the 21 year old in the 10:49:57</p> <p>6 apartment?</p> <p>7 A. It was issued to the kid Paul who</p> <p>8 was making the delivery.</p> <p>9 Q. Okay, now, who issued the citation</p> <p>10 to the kid making the delivery? 10:50:16</p> <p>11 A. It was either Lamm or -- actually,</p> <p>12 no. It might have been John Dwyer. It was</p> <p>13 either John Dwyer, Kevin Lamm or Frank</p> <p>14 Fiorillo. Offhand I am not sure.</p> <p>15 Q. Now what communication if any did 10:50:27</p> <p>16 you have with regard to the kid Paul who was</p> <p>17 making the delivery concerning the citation</p> <p>18 that was issued to him?</p> <p>19 A. I believe I was already in the</p> <p>20 station house at my desk and they brought the 10:50:38</p> <p>21 kid Paul into the station house to issue the</p> <p>22 summons. And he was complaining, you know, I</p> <p>23 work for CJ's, I am making a delivery. Okay,</p> <p>24 well, if that is the truth bring all your</p> <p>25 documentation to court and prove your case. I 10:50:51</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 wasn't sure.</p> <p>3 Q. And that was the extent of your</p> <p>4 communication with that kid Paul?</p> <p>5 A. Yes. 10:51:00</p> <p>6 Q. So the citation was issued?</p> <p>7 A. Yes.</p> <p>8 Q. And your advice to the kid was</p> <p>9 just prove your case in court?</p> <p>10 A. Exactly. 10:51:07</p> <p>11 Q. Now the plaintiffs then allege in</p> <p>12 55 that you returned the case of beer to the</p> <p>13 under aged youth. Did you return the case of</p> <p>14 beer to this kid Paul?</p> <p>15 A. No. 10:51:25</p> <p>16 Q. Did you take the case of beer to</p> <p>17 the other kid who was 21 in the apartment?</p> <p>18 A. No.</p> <p>19 Q. Do you have an understanding as to</p> <p>20 what plaintiffs mean when they say that you 10:51:32</p> <p>21 returned the case of beer to the under aged</p> <p>22 youth?</p> <p>23 A. The person who ordered it came and</p> <p>24 took it. He came and picked it up.</p> <p>25 Q. And he was 21 to the best of your 10:51:39</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 knowledge?</p> <p>3 A. He was.</p> <p>4 Q. And how do you know that?</p> <p>5 A. We checked his ID. 10:51:43</p> <p>6 Q. The plaintiffs then allege in the</p> <p>7 last sentence that Hesse later ordered that</p> <p>8 Officer Lamm refrain from issuing citations on</p> <p>9 enforcing the law against this youth.</p> <p>10 Since we now have two youths that 10:52:03</p> <p>11 are being referenced in the story by you, did</p> <p>12 you ever order Officer Lamm to refrain from</p> <p>13 issuing a citation or enforcing a law, any law</p> <p>14 against this guy Paul?</p> <p>15 A. No. 10:52:16</p> <p>16 Q. Same question with regard to the</p> <p>17 21 year old that picked up the case of beer?</p> <p>18 A. No.</p> <p>19 Q. In paragraph 56, please read</p> <p>20 paragraph 56 and then tell me when you are 10:52:29</p> <p>21 done?</p> <p>22 A. Okay.</p> <p>23 Q. Now let's look at the first</p> <p>24 sentence of paragraph 56. Here Snyder and</p> <p>25 Lamm are alleging that you advised the youths 10:53:06</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
Page 834	Page 835
<p>1 Hesse</p> <p>2 that were referenced in 54 and 55 -- I'm</p> <p>3 sorry, in 55, that you advised these youths</p> <p>4 that Officer Lamm was a loser.</p> <p>5 Did you ever advise any youth that 10:53:23</p> <p>6 Officer Lamm was a loser?</p> <p>7 A. No.</p> <p>8 Q. Did you ever advise any person</p> <p>9 that was issued a citation that Officer Lamm</p> <p>10 was a loser? 10:53:34</p> <p>11 A. No.</p> <p>12 Q. Did you ever advise these youths</p> <p>13 that no one likes Lamm as Lamm alleged in 56?</p> <p>14 A. No.</p> <p>15 Q. Did you ever advise any individual 10:53:43</p> <p>16 that was issued a citation that no one likes</p> <p>17 Lamm?</p> <p>18 A. No.</p> <p>19 Q. Did you ever advise any individual</p> <p>20 who was issued a citation that no one listens 10:53:55</p> <p>21 to Lamm and therefore they should not listen</p> <p>22 to Lamm?</p> <p>23 A. No.</p> <p>24 Q. Did you ever advise anybody --</p> <p>25 withdrawn. 10:54:02</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 Did you ever advise any youth that</p> <p>3 they should not listen to Officer Lamm's</p> <p>4 lawful directives?</p> <p>5 A. No. 10:54:13</p> <p>6 Q. Now please read 60 and 61 and tell</p> <p>7 me when you are done?</p> <p>8 A. Okay.</p> <p>9 Q. Now, 60 is referring to an</p> <p>10 incident, if I am correct, involving a file 10:55:14</p> <p>11 cabinet being thrown in by one or both of the</p> <p>12 Bosetti's into the bay?</p> <p>13 A. Right.</p> <p>14 Q. And I think you spoke about that</p> <p>15 the last time, so I am not going to ask you 10:55:27</p> <p>16 questions about that.</p> <p>17 61 now if I understand it</p> <p>18 correctly, tell me if your understanding is</p> <p>19 differently, that in response to whatever</p> <p>20 involvement Fiorillo was in this file cabinet 10:55:39</p> <p>21 incident, you ordered him to spend three</p> <p>22 consecutive shifts standing motionless beneath</p> <p>23 a street like at the intersection of Denhoff</p> <p>24 Walk and Bay Walk.</p> <p>25 Do you have the same understanding 10:55:53</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 Hesse
2 of 61 as I have?
3 MR. CONNOLLY: Objection.
4 A. He is trying to relate a couple of
5 different incidents into one. That one thing 10:56:01
6 had nothing to do with the other.
7 Q. So when you say that one thing had
8 nothing to do with the other, you are saying
9 that whether Fiorillo spent three shifts
10 standing motionless underneath a light had 10:56:17
11 nothing to do with what occurred with the file
12 cabinet with the Bosetti's?
13 MR. GOODSTADT: Objection.
14 MR. CONNOLLY: Objection.
15 A. That is correct. 10:56:24
16 Q. Let's stay on 61. Did you ever
17 order Officer Fiorillo to spend three
18 consecutive shifts standing motionless beneath
19 a street light at the intersection of Denhoff
20 Walk and Bay Walk? 10:56:35
21 A. No.
22 Q. I believe you did tell me at
23 least, I don't know if you told Mr. Goodstadt
24 in response to his questions, that you did
25 require Mr. Fiorillo to spend a number of 10:56:45
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1 Hesse
2 Did you ever instruct Fiorillo to
3 wash the fleet of Ocean Beach Police
4 Department vehicles before the end of his
5 shift? 10:58:00
6 A. No.
7 Q. How many vehicles are there in the
8 fleet of the Ocean Beach Police Department?
9 A. Then or now?
10 Q. How about before April 2006; 10:58:09
11 between the 2002 season and the 2005 season?
12 A. We had two Expeditions, we had two
13 little golf card G.E.M. cars, and I think that
14 was it.
15 Q. Did you ever instruct any of the 10:58:30
16 plaintiffs to ever wash the cars?
17 A. I am sure I have over the years,
18 yes.
19 Q. Have you ever instructed other
20 officers to wash the fleet of the Ocean Beach 10:58:39
21 Police Department?
22 A. I have done it myself, yes.
23 Q. And you have done it yourself?
24 A. Absolutely.
25 MR. NOVIKOFF: I have no further 10:59:03
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1 Hesse
2 shifts in a row at the same location at
3 Denhoff Walk and Bay Walk. Do you recall
4 that?
5 A. Correct. 10:56:55
6 Q. Did that direction, putting
7 Fiorillo on the same shift for more than one
8 night in a row have anything to do with the
9 incident involving the Bosetti's throwing a
10 file cabinet in the water? 10:57:07
11 A. Nothing.
12 Q. Did you ever instruct Fiorillo on
13 any occasion that he was forbidden to move
14 from any assigned post during all of the times
15 that he worked on the same shift you worked? 10:57:21
16 A. No.
17 Q. Did you ever instruct any officer
18 during the time that you and Fiorillo worked
19 on the same shifts that that officer was not
20 permitted to speak with Fiorillo? 10:57:37
21 A. No.
22 Q. Paragraph 62 refers to an
23 instruction by you to Fiorillo to wash the
24 fleet of Ocean Beach Police Department
25 vehicles before the end of his shift. 10:57:51
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1 Hesse
2 questions, thank you.
3 MR. CONNOLLY: I have no
4 questions.
5 MR. BAPTISTE: Take a moment. 10:59:09
6 THE VIDEOGRAPHER: The time is 11
7 o'clock. We are off the record.
8 (Recess taken.)
9 EXAMINATION BY
10 MR. BAPTISTE: 11:03:46
11 THE VIDEOGRAPHER: The time is
12 11:06, we are on the record.
13 Q. Good morning, Mr. Hesse, I just
14 have a few questions.
15 A. Good morning. 11:05:19
16 Q. I believe earlier you testified
17 that -- actually do you know who Allison
18 Sanchez is?
19 A. Yes.
20 Q. Who do you know her to be? 11:05:29
21 A. She was an employee of Suffolk
22 County Civil Service and I believe she was the
23 account manager for Ocean Beach, the
24 incorporated village of.
25 Q. Could you describe any 11:05:45
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<p>1 Hesse</p> <p>2 relationship that you had with Ms. Sanchez?</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 A. It was strictly professional.</p> <p>5 MR. GOODSTADT: We have an 11:05:55</p> <p>6 agreement, just one objection --</p> <p>7 MR. NOVIKOFF: Yes, one objection</p> <p>8 is for all.</p> <p>9 Q. During the time of covering this</p> <p>10 complaint have you ever met with Ms. Sanchez 11:06:07</p> <p>11 in a personal capacity?</p> <p>12 A. Well, I went to drop off some</p> <p>13 paperwork to her once and we went to lunch.</p> <p>14 But I would consider that a professional</p> <p>15 meeting. 11:06:22</p> <p>16 Q. When you say you went to lunch,</p> <p>17 you went to lunch in Suffolk County?</p> <p>18 A. Yes.</p> <p>19 Q. In Hauppauge?</p> <p>20 A. Yes. 11:06:28</p> <p>21 Q. Do you remember -- withdrawn.</p> <p>22 Do you recall what was discussed</p> <p>23 if anything during that lunch?</p> <p>24 A. Not really. It was just a lot of</p> <p>25 small talk. Nothing about the job itself. 11:06:42</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 Q. Previously you testified that you</p> <p>3 dropped off paperwork. Do you recall what</p> <p>4 documents if any you did deliver?</p> <p>5 A. I believe -- I don't remember the 11:06:53</p> <p>6 name of the document, but there were documents</p> <p>7 that had to be filled out when a police</p> <p>8 officer has passed his qualifying exams, the</p> <p>9 four exams. It has to be signed off on by</p> <p>10 Civil Service so I can send to it the registry 11:07:09</p> <p>11 of New York State.</p> <p>12 Q. At any time covered in this</p> <p>13 complaint were you ever involved romantically</p> <p>14 with Ms. Sanchez?</p> <p>15 A. Never. 11:07:24</p> <p>16 Q. How about outside the time of this</p> <p>17 complaint?</p> <p>18 A. No.</p> <p>19 MR. BAPTISTE: No further</p> <p>20 questions. 11:07:32</p> <p>21 MR. CONNOLLY: I have no</p> <p>22 questions.</p> <p>23 MR. GOODSTADT: I do.</p> <p>24 EXAMINATION BY</p> <p>25 MR. GOODSTADT: 11:07:44</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
Page 842	Page 843
<p>1 Hesse</p> <p>2 MR. CONNOLLY: You have had ten</p> <p>3 hours, but that is fine. Go ahead, and</p> <p>4 if it becomes an issue I will deal with</p> <p>5 it. 11:08:07</p> <p>6 Q. Mr. Hesse, I just have some follow</p> <p>7 up questions regarding some testimony that you</p> <p>8 have given in response to questions asked by</p> <p>9 the Ocean Beach defendant's attorney, as well</p> <p>10 as the County's attorney. 11:08:19</p> <p>11 You testified about your blogging</p> <p>12 after April 2nd, do you recall your testimony</p> <p>13 last time?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. Just the fact that I made some 11:08:28</p> <p>16 entries, yes.</p> <p>17 Q. You testified that you had not</p> <p>18 spoken with any trustee about your blog; is</p> <p>19 that correct?</p> <p>20 MR. NOVIKOFF: Objection. 11:08:38</p> <p>21 MR. CONNOLLY: Objection. I don't</p> <p>22 recall there being any question in that</p> <p>23 regard, although admittedly there have</p> <p>24 been thousands of questions.</p> <p>25 A. Yes. I believe I was asked did I 11:08:51</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 discuss my blog entries with any trustee, no.</p> <p>3 Q. Sitting here today did you ever</p> <p>4 discuss or have you spoken with any trustees</p> <p>5 for the Village of Ocean Beach anything about 11:09:02</p> <p>6 your blog entries?</p> <p>7 A. No.</p> <p>8 Q. Have you ever discussed or spoken</p> <p>9 with any member of the board of trustees of</p> <p>10 the Village of Ocean Beach just the fact that 11:09:12</p> <p>11 you have blogged?</p> <p>12 A. No.</p> <p>13 Q. At the time that you blogged after</p> <p>14 April 2, 2006 you were the top officer</p> <p>15 actively working for the Village of Ocean 11:09:24</p> <p>16 Beach; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. At that point in time you had the</p> <p>19 authority to hire and fire?</p> <p>20 A. Yes. 11:09:33</p> <p>21 Q. At that point in time you had the</p> <p>22 authority to make and administer policy with</p> <p>23 respect to the Police Department?</p> <p>24 A. Yes.</p> <p>25 MR. NOVIKOFF: Note my objection 11:09:40</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

1 Hesse
2 to that question.
3 **Q. Have you ever spoken with or**
4 **discussed your blog entries with Allison**
5 **Sanchez? 11:09:50**
6 A. No.
7 **Q. Has Ms. Sanchez ever spoken with**
8 **you or discussed with you any blog entries**
9 **that she made?**
10 A. No. 11:09:57
11 **Q. Do you know whether Allison**
12 **Sanchez has ever entered any post on the**
13 **blogs?**
14 MR. CONNOLLY: Does he know
15 personally -- 11:10:05
16 **Q. I am asking if he knows, not**
17 **necessarily actually witness her type it in,**
18 **but has anyone ever told you?**
19 A. I found out today that apparently
20 she may have made some blog entries. 11:10:16
21 **Q. So prior to today you didn't know**
22 **that?**
23 A. No.
24 **Q. And I don't want to impede upon**
25 **the attorney/client privilege, but did you 11:10:24**
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1 Hesse
2 **response to Mr. Novikoff's questions about**
3 **Halloween?**
4 A. Yes.
5 **Q. And he went through a series of 11:11:26**
6 **the eyewitness statements that were taken in**
7 **connection with the Halloween incident, do you**
8 **recall that?**
9 A. Yes.
10 **Q. Then he went through select 11:11:32**
11 **portions of some eyewitness statements and had**
12 **asked you whether you knew if this person,**
13 **meaning the eyewitnesss, had actually**
14 **witnessed the part in which Mr. Bosetti used a**
15 **pool cue to strike someone, do you recall 11:11:49**
16 **that.**
17 MR. CONNOLLY: Objection to the
18 form.
19 A. Yes.
20 **Q. Do you recall testifying that in 11:11:53**
21 **fact the witnesses that Mr. Novikoff asked you**
22 **about, that you were not sure whether they**
23 **witnessed the point -- the time period where**
24 **Mr. Bosetti used the pool cue, do you recall**
25 **that? 11:12:10**
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1 Hesse
2 **hear that from anybody other than for perhaps**
3 **your attorney or an attorney that represents**
4 **you?**
5 A. No. 11:10:33
6 MR. NOVIKOFF: Just so the record
7 is clear, I believe we can stipulate that
8 within the last week we all have been
9 served by the Suffolk County supplemental
10 response to your interrogatory requests 11:10:47
11 concerning whether or not Ms. Sanchez
12 posted any blogs, and in fact she did
13 identify some blog entries. Just so to
14 put this question into context of what we
15 received. 11:11:03
16 MR. GOODSTADT: Right, I just
17 wanted to know if he had a conversation
18 with her --
19 MR. NOVIKOFF: No, legitimate, I
20 understand that. 11:11:08
21 **Q. I want to go back to some**
22 **questions that Mr. Novikoff asked you about**
23 **the Halloween incident?**
24 A. Uh-hum.
25 **Q. Do you recall testifying in 11:11:19**
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1 Hesse
2 MR. CONNOLLY: Objection.
3 MR. NOVIKOFF: Objection.
4 A. Repeat that question.
5 **Q. Yes. 11:12:16**
6 **Mr. Novikoff walked you through**
7 **certain witness statements, do you recall**
8 **that?**
9 A. Yes.
10 **Q. And there were the witness 11:12:23**
11 **statements that Mr. Novikoff walked you**
12 **through that did not contain any allegation**
13 **of, or contain any statement with respect to**
14 **Mr. Bosetti using a pool cue. Do you recall**
15 **that? 11:12:34**
16 A. Right.
17 **Q. Then he had asked you whether the**
18 **individuals that he walked you through,**
19 **whether they in fact told you that they even**
20 **eyewitnessed the incident in which Mr. Bosetti 11:12:42**
21 **used the pool cue, do you recall that?**
22 A. Yes.
23 **Q. In fact he even asked you if they**
24 **had not witnessed it and they said something**
25 **about it, and wrote something about it or gave 11:12:50**
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1 Hesse
2 you the statement, that in fact it would be
3 perjurious, correct, do you recall that?
4 MR. CONNOLLY: Objection.
5 A. Yes. 11:12:57
6 Q. And you said yes, it would be
7 perjurious?
8 A. Yes.
9 Q. Let me ask you, in the five days
10 that you took to reach a conclusion about what 11:13:01
11 happened at Halloween, did you speak to
12 anybody who witnessed the incident in which
13 Mr. Bosetti used a pool cue to strike
14 somebody?
15 MR. NOVIKOFF: Note my objection. 11:13:15
16 MR. CONNOLLY: Objection.
17 A. I believe no.
18 Q. And yet you still reached a
19 conclusion that Mr. Bosetti acted with
20 appropriate force; is that correct? 11:13:23
21 A. Correct.
22 Q. And yet the only statement that
23 you had in writing, verbally or otherwise
24 about the use of a pool cue was the statements
25 that the on-duty officers took; correct? 11:13:37
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1 Hesse
2 A. No.
3 Q. Well what other statements did you
4 have with respect to a pool cue by the time
5 you made your conclusions within five days of 11:13:43
6 investigating the incident?
7 MR. CONNOLLY: Objection.
8 A. Well, the dates -- I understand
9 what you are saying, but Gary Bosetti himself
10 admitted to using a pool cue. 11:13:55
11 Q. But sir you testified that you
12 didn't speak to Gary Bosetti during that five
13 day period?
14 A. Correct.
15 Q. So my question is during that five 11:14:00
16 day period the only witness statement that you
17 had from anybody with respect to the use of a
18 pool cue was from the statements that the
19 on-duty officers took that evening; is that
20 correct? 11:14:15
21 A. Correct.
22 Q. And yet you still concluded that
23 Mr. Bosetti used proper force; correct?
24 A. Correct.
25 Q. Is it possible that all the other 11:14:24
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1 Hesse
2 statements that you got from all the other
3 eyewitnesses are correct, and yet Mr. Bosetti
4 still used excessive force with a pool cue?
5 MR. NOVIKOFF: Objection. 11:14:37
6 MR. CONNOLLY: Objection.
7 A. I don't believe he used excessive
8 force.
9 Q. I understand what your conclusion
10 is. I understand what your conclusion is that 11:14:46
11 you don't believe that he used excessive
12 force. My question to you is on the day that
13 you reached the conclusion five days after you
14 started the investigation, is it possible that
15 all the eyewitness statements that you 11:14:59
16 received from all the people who didn't
17 mention anything about a pool cue, is it
18 possible that even if that -- those statements
19 were correct and accurate, that Mr. Bosetti
20 still could have used excessive force with the 11:15:11
21 pool cue?
22 MR. NOVIKOFF: Objection to the
23 form because the eyewitness statements I
24 presume you are including are those of
25 the alleged victims. 11:15:23
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1 Hesse
2 Q. Yes.
3 A. Yes. They mentioned the pool cue.
4 I never doubted that a pool cue was used.
5 Q. I understand that. But how did 11:15:29
6 you reach the conclusion that Mr. Bosetti had
7 not used excessive force within the five days
8 of starting the investigation when the only
9 statement that you had about the use of a pool
10 cue came from the victims of the -- who were 11:15:44
11 struck by the pool cue in which they were
12 alleging excessive force?
13 MR. NOVIKOFF: Objection.
14 MR. CONNOLLY: Objection.
15 A. Well there was three of them, and 11:15:52
16 the way I felt they were attacking the police
17 officer at that point. So I do not believe it
18 to be excessive.
19 Q. Is it possible that a police
20 officer could be attacked by a civilian and 11:16:03
21 the police officer still use excessive force?
22 MR. CONNOLLY: Objection.
23 MR. NOVIKOFF: Objection. Maybe
24 if they were midgets.
25 A. You are speculating about 11:16:14
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<p style="text-align: right;">Page 852</p> <p>1 Hesse</p> <p>2 something that may or may not happen somewhere</p> <p>3 in the world, I don't know, yes.</p> <p>4 MR. CONNOLLY: So the answer to</p> <p>5 counsel's question regarding 11:16:25</p> <p>6 possibilities, is it possible.</p> <p>7 A. Yes, why not.</p> <p>8 Q. And is it possible that Gary</p> <p>9 Bosetti used excessive force, even taking all</p> <p>10 the witness statements as true, at that point 11:16:31</p> <p>11 in time is it possible in your mind that Gary</p> <p>12 Bosetti used excessive force with that pool</p> <p>13 cue?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 MR. NOVIKOFF: Objection. 11:16:39</p> <p>16 A. That was the point of the</p> <p>17 investigation, to get to the bottom of that.</p> <p>18 Q. And yet you didn't speak to a</p> <p>19 single person and you didn't take a single</p> <p>20 statement from anybody who actually witnessed 11:16:47</p> <p>21 Mr. Bosetti use the pool cue; is that correct?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Their statements are their</p> <p>25 statements. 11:16:54</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 853</p> <p>1 Hesse</p> <p>2 Q. That is not the question. The</p> <p>3 question was at the time that you reached your</p> <p>4 conclusion you had not taken a single</p> <p>5 statement from a witness who told you that 11:17:00</p> <p>6 they actually witnessed Mr. Bosetti use the</p> <p>7 pool cue?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. I didn't have to take statements, 11:17:07</p> <p>11 there were three of them there.</p> <p>12 MR. CONNOLLY: Simple yes or no</p> <p>13 though.</p> <p>14 A. I did not, no.</p> <p>15 Q. Do you know whether Mr. Cherry 11:17:14</p> <p>16 took any statements from any individual who</p> <p>17 witnessed Mr. Bosetti use the pool cue?</p> <p>18 A. No.</p> <p>19 Q. You don't know or he didn't?</p> <p>20 A. I believe it is no. 11:17:23</p> <p>21 MR. CONNOLLY: Why don't you break</p> <p>22 down the question.</p> <p>23 Q. Did Mr. Cherry --</p> <p>24 MR. CONNOLLY: And by the way I</p> <p>25 believe he has been asked this. 11:17:34</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 854</p> <p>1 Hesse</p> <p>2 Q. Did Mr. Cherry take any statements</p> <p>3 from any eyewitness who actually saw Gary</p> <p>4 Bosetti use a pool cue to strike somebody?</p> <p>5 MR. NOVIKOFF: Objection. 11:17:43</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. No.</p> <p>8 Q. I believe you testified that you</p> <p>9 heard some rumors that the plaintiffs thought</p> <p>10 that there was a cover-up. Do you recall 11:18:12</p> <p>11 testifying to that?</p> <p>12 A. Yes.</p> <p>13 Q. What rumors did you hear?</p> <p>14 A. That there was a cover-up.</p> <p>15 Q. Who did you hear the rumors from? 11:18:21</p> <p>16 A. I don't recall.</p> <p>17 Q. When did you hear the rumors?</p> <p>18 A. I don't recall that either.</p> <p>19 Q. Do you recall what year it was?</p> <p>20 A. It was probably in 2004. 11:18:29</p> <p>21 Q. Do you recall what the rumors</p> <p>22 were?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Not specifically, no.</p> <p>25 Q. How about generally? 11:18:38</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 855</p> <p>1 Hesse</p> <p>2 A. Generally that we were covering up</p> <p>3 to save Gary Bosetti.</p> <p>4 Q. And do you recall any of the</p> <p>5 plaintiffs in which you heard the rumor that 11:18:51</p> <p>6 were -- strike that.</p> <p>7 As part of these rumors do you</p> <p>8 recall any of the plaintiffs who were alleging</p> <p>9 that you were covering up the Halloween</p> <p>10 incident to save Gary Bosetti? 11:19:09</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. You are going to have to rephrase</p> <p>14 that or something.</p> <p>15 Q. Which plaintiffs were the ones 11:19:16</p> <p>16 that you heard rumors about that were alleging</p> <p>17 there to be a cover-up?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 MR. CONNOLLY: There has not been 11:19:27</p> <p>21 any testimony in that regard.</p> <p>22 MR. GOODSTADT: I think I led off</p> <p>23 the question by saying rumors --</p> <p>24 MR. CONNOLLY: I think you made a</p> <p>25 generalization that there were rumors, I 11:19:35</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>

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1 Hesse
2 don't think you specifically said --
3 **Q. Did you hear a rumor that the**
4 **plaintiffs were claiming that there was an**
5 **allegation of cover-up? 11:19:42**
6 A. I heard rumors, yes. I don't
7 recall specifically coming from them, but you
8 know I could speculate and say yes, but I
9 don't know.
10 **Q. I am not saying that you actually 11:19:53**
11 **heard the rumors from them. I am talking**
12 **about whether you heard rumors that it was the**
13 **plaintiffs who were the ones that were stating**
14 **that there was a cover-up?**
15 A. I believe so. 11:20:03
16 **Q. Which plaintiffs?**
17 A. I don't know.
18 **Q. Do you recall any of the**
19 **plaintiffs that you heard were claiming that**
20 **there was a cover-up to save Gary Bosetti? 11:20:10**
21 A. I believe I did state in one of
22 the other three days that I was here that
23 Kevin Lamm had mentioned something about
24 sweeping this under the carpet, or another
25 situation of sweeping this under the carpet. 11:20:21
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1 Hesse
2 **that.**
3 **Did you ever speak to them**
4 **generally about the fact that there was an**
5 **allegation of a cover-up, other than for the 11:21:04**
6 **conversation you had with Lamm about sweeping**
7 **under the rug?**
8 MR. NOVIKOFF: Objection.
9 A. No.
10 **Q. How come; why didn't you address 11:21:12**
11 **it with them when you heard these rumors?**
12 MR. CONNOLLY: Objection.
13 MR. NOVIKOFF: Objection.
14 A. Well because I heard the rumors I
15 did speak to them individually, but not about 11:21:21
16 the rumors. Like I stated I think the last
17 time I was here that I sat down with each one
18 of them with the actual file for the whole
19 Halloween incident and I said read it, you
20 tell me what you see here. 11:21:35
21 Kevin Lamm like I said refused to
22 read it. Fiorillo read through it and he
23 thought it was good at the time. And Snyder
24 said that wow, I didn't know that, I didn't
25 know that, I didn't know that. And he read 11:21:50
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1 Hesse
2 And what he meant by that I don't know.
3 **Q. But that is something that he said**
4 **to you directly; correct?**
5 A. You know, yes. 11:20:28
6 **Q. I am talking now about the rumors,**
7 **I am not talking about someone made the**
8 **allegation to you directly. You testified to**
9 **rumors. I want to know what rumors you are**
10 **referring to? 11:20:36**
11 MR. NOVIKOFF: Objection.
12 MR. CONNOLLY: Objection.
13 A. They were just rumors just like
14 any other rumor, how do they get around. Word
15 of mouth. I don't know. 11:20:43
16 **Q. Who did you hear the rumors from?**
17 A. I don't recall.
18 MR. CONNOLLY: Objection. He
19 indicated he doesn't know.
20 **Q. Did you respond to the rumors? 11:20:50**
21 A. Not that I recall.
22 **Q. Did you ever speak with any of the**
23 **plaintiffs about these rumors?**
24 A. Not specifically, no.
25 **Q. Did you ever speak with -- strike 11:20:59**
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1 Hesse
2 through it and he thought it was good.
3 MR. GOODSTADT: I think we have an
4 agreement that I don't have to move to
5 strike at this time? 11:21:59
6 MR. NOVIKOFF: No, not at all.
7 **Q. I will re-ask the question.**
8 **The question is why didn't you**
9 **raise the rumors that you heard with the**
10 **plaintiffs? 11:22:06**
11 A. I didn't see there was a point.
12 **Q. Did you ever speak with Gary**
13 **Bosetti about the rumors?**
14 A. Not specifically, no.
15 **Q. How about generally did you ever 11:22:15**
16 **speak with him about the rumors?**
17 A. I think there was some complaints
18 on his behalf that he felt that, you know,
19 that these guys were bad mouthing him saying
20 that there were cover-ups. And I did tell 11:22:29
21 Gary that, you know, I didn't believe his
22 allegation that they were trying to hurt him
23 or anything else. I just investigated what I
24 had. Took what I had. Presented it to the DA
25 and that was it. 11:22:42
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1 Hesse
2 **Q. So Gary Bosetti made an allegation**
3 **that he thought that the plaintiffs were**
4 **trying to hurt him?**
5 A. Yes. 11:22:49
6 **Q. Did you ever speak to Richie**
7 **Bosetti about the allegations of a cover-up or**
8 **the rumors of a cover-up?**
9 A. No.
10 MR. NOVIKOFF: Objection. 11:23:01
11 **Q. When did Gary Bosetti claim to you**
12 **or complain to you that the plaintiffs were**
13 **trying to hurt him?**
14 A. Specifically I don't remember.
15 **Q. Do you recall what year it was?** 11:23:16
16 A. It was probably at the end of 2004
17 at some point.
18 **Q. Did you ever discuss the rumors of**
19 **a cover-up after you heard them with anybody?**
20 A. I had spoken to Chief Paradiso 11:23:30
21 about the whole incident.
22 **Q. Tell me when was that?**
23 A. Specifically I don't have a date,
24 but it was right after I guess these rumors
25 had begun that I sat him down and had a little 11:23:50
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1 Hesse
2 MR. NOVIKOFF: Objection.
3 MR. CONNOLLY: Objection.
4 A. To my knowledge no. I don't know.
5 **Q. And Mallory Sullivan is an** 11:24:56
6 **attorney in the DA's office?**
7 A. Yes, she was a prosecutor.
8 **Q. Do you know whether any of the**
9 **DA's investigators were involved in the**
10 **Halloween incident?** 11:25:07
11 A. Not that I am aware of.
12 **Q. Did you ever speak with any DA**
13 **investigator with respect to the Halloween**
14 **incident?**
15 A. I did not. 11:25:13
16 **Q. Did you ever speak with any of the**
17 **DA's investigators with respect to your**
18 **investigation of the Halloween incident?**
19 A. I did not.
20 **Q. Then you testified that Van Koot** 11:25:25
21 **and Schalik's attorneys received discovery, do**
22 **you recall that?**
23 MR. NOVIKOFF: Objection.
24 A. Yes.
25 **Q. What did they receive?** 11:25:35
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1 Hesse
2 chat with him about it.
3 **Q. Tell me what you recall being**
4 **stated during that chat?**
5 A. I told him what I guess both sides 11:24:01
6 were feeling, Gary and Richie, and then three
7 of the plaintiffs, Fiorillo, Lamm and Snyder
8 specifically. And I thought it would be a
9 good idea that we get the group together and
10 we hash it out. He refused to do so, he chose 11:24:16
11 not to do it.
12 **Q. The chief chose not to do it?**
13 A. Correct.
14 **Q. Did he tell you why?**
15 A. No. 11:24:25
16 **Q. You testified about the District**
17 **Attorney's involvement in the Halloween**
18 **incident, do you recall that?**
19 A. Yes.
20 **Q. You testified that Mallory** 11:24:38
21 **Sullivan reviewed it, do you recall that?**
22 A. Yes.
23 **Q. Did anyone in the DA's office**
24 **conduct an independent investigation to your**
25 **knowledge?** 11:24:54
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1 Hesse
2 MR. CONNOLLY: Objection.
3 A. I wouldn't know. I think the
4 court would have responded to that.
5 **Q. So you don't know?** 11:25:44
6 A. I don't know.
7 **Q. How do you know that they actually**
8 **received discovery?**
9 A. I think we had a discovery demand,
10 but specifically I don't know. 11:25:53
11 **Q. You were involved with responding**
12 **to the demand?**
13 A. You know I don't recall.
14 **Q. Then you testified that you were**
15 **upset that Fiorillo and Lamm went to Judge** 11:26:13
16 **Russell with respect to the station house bail**
17 **issue, do you recall that?**
18 A. Yes.
19 **Q. Why were you upset that they went**
20 **to Judge Russell?** 11:26:23
21 A. They went outside the confines of
22 the Police Department to get information about
23 Police Department procedures.
24 **Q. So outside of the chain of**
25 **command?** 11:26:32
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<p style="text-align: right;">Page 864</p> <p>1 Hesse</p> <p>2 A. Absolutely.</p> <p>3 Q. Do you recall when that incident</p> <p>4 was?</p> <p>5 A. Specifically no. 11:26:34</p> <p>6 Q. Do you recall what year it was?</p> <p>7 A. May have been 2005.</p> <p>8 Q. Do you recall when in 2005?</p> <p>9 A. No.</p> <p>10 Q. Did you discipline them for going 11:26:48</p> <p>11 outside the chain of command?</p> <p>12 A. I talked to them.</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 Q. Did you memorialize your talk with</p> <p>15 them or any other discipline? 11:26:58</p> <p>16 A. No.</p> <p>17 Q. You testified that they had done</p> <p>18 it again after you spoke with them; is that</p> <p>19 correct?</p> <p>20 A. Yes. 11:27:05</p> <p>21 Q. Did you discipline them for doing</p> <p>22 that?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. I counseled them, I had a talk</p> <p>25 with them. 11:27:10</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 865</p> <p>1 Hesse</p> <p>2 Q. Did you write them up at all?</p> <p>3 A. No.</p> <p>4 Q. Did you tell anybody else that</p> <p>5 they had violated your instruction with 11:27:14</p> <p>6 respect to the station house bail?</p> <p>7 A. I don't recall if I did.</p> <p>8 Q. Do you recall what year it was</p> <p>9 that they allegedly disobeyed your order?</p> <p>10 MR. CONNOLLY: Objection. 11:27:26</p> <p>11 A. I believe it was in a short</p> <p>12 timeframe, so it would have been close to when</p> <p>13 they did it the first time.</p> <p>14 Q. 2005?</p> <p>15 A. Yes. 11:27:34</p> <p>16 Q. Was that during the season or</p> <p>17 off-season?</p> <p>18 A. It would be during the season.</p> <p>19 Q. Did you ever speak with Judge</p> <p>20 Russell about the station house bail issue? 11:27:42</p> <p>21 A. I don't believe so.</p> <p>22 Q. Did you ever speak with any member</p> <p>23 of the board of trustees about the station</p> <p>24 house bail issue?</p> <p>25 A. No. 11:27:52</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 866</p> <p>1 Hesse</p> <p>2 Q. Did you ever speak with the mayor</p> <p>3 about the station house bail issue?</p> <p>4 A. No.</p> <p>5 Q. The mayor at the time was 11:27:56</p> <p>6 Ms. Rogers?</p> <p>7 A. Yes.</p> <p>8 Q. You testified last time in</p> <p>9 response to Mr. Novikoff's questions about</p> <p>10 instructing officers to drive other off-duty 11:28:12</p> <p>11 officers at the end of their shift, do you</p> <p>12 recall that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever instruct any officers</p> <p>15 to drive off-duty officers out to the 11:28:23</p> <p>16 checkpoint when it was not the end of their</p> <p>17 shift?</p> <p>18 MR. NOVIKOFF: Objection, form,</p> <p>19 and I think we actually covered this</p> <p>20 through your -- in your original direct 11:28:33</p> <p>21 examination.</p> <p>22 MR. GOODSTADT: Right, but I was</p> <p>23 not sure what his response meant to your</p> <p>24 question about yes, I instructed them to</p> <p>25 do it at the end of their shift. 11:28:45</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 867</p> <p>1 Hesse</p> <p>2 MR. NOVIKOFF: What is confusing</p> <p>3 about that response?</p> <p>4 Q. Was it as their shift ended or was</p> <p>5 it at some point later than that in which you 11:28:53</p> <p>6 instructed the officers to drive the off-duty</p> <p>7 officers to the checkpoint?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 MR. CONNOLLY: A point later</p> <p>10 meaning -- 11:29:06</p> <p>11 MR. GOODSTADT: A couple of hours</p> <p>12 later.</p> <p>13 MR. CONNOLLY: When they were off</p> <p>14 duty?</p> <p>15 MR. GOODSTADT: Yes. 11:29:13</p> <p>16 MR. CONNOLLY: So instructing</p> <p>17 off-duty officers --</p> <p>18 MR. GOODSTADT: Instructing</p> <p>19 on-duty officers to drive off-duty</p> <p>20 officers to the checkpoint. 11:29:17</p> <p>21 MR. CONNOLLY: Meaning making</p> <p>22 reference to several hours later after</p> <p>23 the officers who were driven got off the</p> <p>24 shift?</p> <p>25 MR. GOODSTADT: The off-duty 11:29:26</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

Hesse

officers, yes, several hours after their becoming off duty.

MR. CONNOLLY: I understand the question now. 11:29:34

Q. Because the testimony that I read and I understood from last time was that Mr. Hesse had instructed on-duty officers to drive off-duty officers to the checkpoint at the end of their shift, do you recall that? 11:29:47

A. Yes.

Q. Did you ever instruct on-duty officers to drive off-duty officers to the checkpoint when it was not at the end of the off-duty officer's shift? 11:29:56

A. Sometimes, yes.

Q. Was it -- did you ever instruct any on-duty officers to drive off-duty officers to the checkpoint after they got out of the bars in Ocean Beach? 11:30:08

MR. NOVIKOFF: Objection to the form.

MR. CONNOLLY: Objection.

A. I may have.

Q. Did any of the plaintiffs ever 11:30:13
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Hesse

complain to you about doing that?

A. Never.

Q. Do you believe it was appropriate for the on-duty officers to drive off-duty officers to the checkpoint after they got out of the bars? 11:30:21

MR. NOVIKOFF: Objection.

MR. CONNOLLY: Objection.

A. Yes. 11:30:28

Q. How many officers were on duty generally on the weekends between 2 in the morning and 6 in the morning?

MR. CONNOLLY: What years?

Q. Between 2003 and 2005; the seasons of '03 to '05? 11:30:48

A. They would not change much between the years. There could be -- well, between 2 and 4 normally there would be close to eight officers, and usually minimum staffing we would have four to five officers between those time frames. 11:31:02

Q. How about between 4 and 6 in the morning?

A. 4 and 6 in the morning, usually a 11:31:17
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Hesse

tour would end at 4 o'clock and two or three officers would go off duty. And then from the midnight to 8 shift there would generally be three, sometimes four officers on duty. 11:31:28

Q. I believe you testified that you had learned that they intended to make you acting chief or acting deputy chief in late December of 2005, do you recall that?

A. Yes, I believe so. 11:31:57

Q. How did you learn of the board of trustees intent?

A. I believe Joe Loeffler came to talk to me about it.

Q. Do you recall what he stated? 11:32:07

A. Specifically, no.

Q. Do you recall generally what he stated?

A. He believed that because of the absence of Ed Paradiso as the chief that the Police Department needs to move forward and it has to be somebody that can make the decisions for the Police Department, so therefore they were going to promote me to this deputy chief. 11:32:15

Q. At that point in time do you know 11:32:30
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Hesse

whether Mr. Loeffler had known that you had not passed your sergeant's test?

MR. CONNOLLY: Objection.

A. Yes. 11:32:38

Q. He knew that?

A. Yes.

Q. Did you speak to him about that at that time?

A. I don't remember specifically about that time, but I have spoken to him about it. 11:32:43

Q. How about prior to the decision by the board of trustees to promote you to deputy chief or acting deputy chief, had you spoken with Mr. Loeffler or anybody else on the board of trustees about the fact that you had not passed the sergeant's exam? 11:32:52

MR. CONNOLLY: Objection.

A. I may have talked to Joe Loeffler about it previous. I don't know about anybody else on the board. 11:33:02

Q. Do you recall the sum and substance of any of those conversations?

A. No, not specifically. No. 11:33:12

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<p style="text-align: right;">Page 872</p> <p>1 Hesse</p> <p>2 Q. How about generally?</p> <p>3 A. No, not really.</p> <p>4 Q. And you are sure that was late</p> <p>5 December that you learned of the board's 11:33:24</p> <p>6 intent to promote you that next January?</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. I believe so.</p> <p>9 Q. You testified about I think you</p> <p>10 called it Officer Fiorillo's or Officer Lamm's 11:33:39</p> <p>11 discretion in writing summonses, do you recall</p> <p>12 that?</p> <p>13 A. Uh-hum.</p> <p>14 Q. And you mentioned something about,</p> <p>15 I think your quote was silly laws regarding 11:33:49</p> <p>16 bike riding in the village, do you recall</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. Did you ever petition the board to</p> <p>20 change the law with respect to bike riding? 11:33:57</p> <p>21 A. Actually I never petitioned it,</p> <p>22 but they have changed the laws a little bit</p> <p>23 here and there. They augmented them.</p> <p>24 Q. When did they change the laws with</p> <p>25 respect to bike riding? 11:34:06</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 873</p> <p>1 Hesse</p> <p>2 A. Specifically I don't remember the</p> <p>3 year, but we used to go through the whole</p> <p>4 summer with absolutely no bike riding any time</p> <p>5 day or night. Now they changed it to where 11:34:15</p> <p>6 you can ride between certain times and certain</p> <p>7 days.</p> <p>8 Q. Do you recall when they made that</p> <p>9 change?</p> <p>10 A. Not specifically, no. 11:34:23</p> <p>11 Q. Was it before or after the</p> <p>12 plaintiffs were terminated?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. I believe it was before.</p> <p>15 MR. NOVIKOFF: Same agreement on 11:34:32</p> <p>16 use of the word?</p> <p>17 MR. GOODSTADT: Yes.</p> <p>18 MR. NOVIKOFF: Got it.</p> <p>19 Q. I believe you testified last time</p> <p>20 about Kevin Lamm conducting an illegal search 11:34:46</p> <p>21 and seizure, do you recall that?</p> <p>22 MR. CONNOLLY: Objection. Last</p> <p>23 time when --</p> <p>24 Q. In response to Mr. Novikoff's</p> <p>25 questions? 11:35:01</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 874</p> <p>1 Hesse</p> <p>2 A. Specifically no, I don't recall.</p> <p>3 Q. Do you recall Kevin Lamm ever</p> <p>4 conducting an illegal search and seizure?</p> <p>5 A. Yes. Are we talking about when he 11:35:11</p> <p>6 put some guys in handcuffs or are we talking</p> <p>7 about when he went into CJ's; you got to give</p> <p>8 me a little more specific.</p> <p>9 Q. Well I am asking do you believe</p> <p>10 that Mr. Lamm ever conducted an illegal search 11:35:24</p> <p>11 and seizure?</p> <p>12 A. Yes.</p> <p>13 Q. How many times?</p> <p>14 A. I don't know. A couple of</p> <p>15 incidents off the top of my head, maybe three 11:35:29</p> <p>16 or four times that I know of.</p> <p>17 Q. Did you ever discipline him for</p> <p>18 doing that?</p> <p>19 A. Yes.</p> <p>20 Q. How did you discipline him? 11:35:38</p> <p>21 A. Verbally.</p> <p>22 Q. Did you ever do anything in</p> <p>23 writing?</p> <p>24 A. No.</p> <p>25 Q. How many times did you discipline 11:35:42</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 875</p> <p>1 Hesse</p> <p>2 him verbally?</p> <p>3 A. Off the top of my head maybe</p> <p>4 twice.</p> <p>5 Q. What was his response? 11:35:49</p> <p>6 A. He said he will never do it again.</p> <p>7 Q. Did you ever investigate whether</p> <p>8 he actually committed an illegal search and</p> <p>9 seizure?</p> <p>10 MR. NOVIKOFF: Objection. 11:36:05</p> <p>11 A. One of them the complaint was</p> <p>12 actually made by Tommy Snyder verbally to me,</p> <p>13 and the other one I witnessed myself.</p> <p>14 Q. How come you never wrote him up</p> <p>15 for the illegal search and seizure? 11:36:19</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. He was counseled verbally. I</p> <p>18 didn't need to put it in writing.</p> <p>19 Q. Why not?</p> <p>20 MR. CONNOLLY: Objection. 11:36:30</p> <p>21 A. I didn't believe I had to.</p> <p>22 Q. Did you ever tell Chief Paradiso</p> <p>23 that Kevin Lamm performed an illegal search</p> <p>24 and seizure?</p> <p>25 A. I don't specifically remember if I 11:36:35</p> <p style="text-align: right;">TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 did or not.</p> <p>3 Q. Did any civilian ever complain</p> <p>4 that Mr. Lamm engaged in an illegal search and</p> <p>5 seizure? 11:36:43</p> <p>6 A. Yes.</p> <p>7 Q. In writing?</p> <p>8 A. He chose not to.</p> <p>9 Q. Who was that?</p> <p>10 A. His first name was Caleb. I don't 11:36:46</p> <p>11 know what his last name is.</p> <p>12 Q. So how did you learn that Caleb</p> <p>13 was claiming that there was an illegal search</p> <p>14 and seizure?</p> <p>15 A. After Tommy Snyder had told me 11:37:00</p> <p>16 what was going on in reference to CJ's Bar, I</p> <p>17 believe Caleb came to see me in the days</p> <p>18 preceding Tommy telling me. So I asked him</p> <p>19 what happened, and he told me what happened.</p> <p>20 Q. Is Caleb an owner or an employee 11:37:17</p> <p>21 of CJ's?</p> <p>22 A. He was a bartender for a year or</p> <p>23 two.</p> <p>24 Q. Did you -- strike that.</p> <p>25 Caleb came to see you about the 11:37:27</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 issue?</p> <p>3 A. Yes.</p> <p>4 Q. At the police station?</p> <p>5 A. It might have been out front. 11:37:31</p> <p>6 Q. Did you make a blotter entry?</p> <p>7 A. No.</p> <p>8 Q. How come?</p> <p>9 A. I asked him if he wanted to put it</p> <p>10 in writing and he chose not to. So he just 11:37:40</p> <p>11 wanted to let me know what was going on.</p> <p>12 Q. Does a complaint or an allegation</p> <p>13 have to be in writing to make any -- for you</p> <p>14 to put in a blotter entry?</p> <p>15 MR. CONNOLLY: Objection. 11:37:54</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I would prefer, yes.</p> <p>18 Q. That wasn't the question. The</p> <p>19 question was does a complaint or allegation</p> <p>20 have to be in writing to lead you to the 11:38:00</p> <p>21 decision to make a blotter entry?</p> <p>22 A. Back then we didn't make many</p> <p>23 blotter when it came to stuff like that. We</p> <p>24 didn't make blotter entries for complainants</p> <p>25 coming in to make a complaint against the 11:38:12</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Hesse</p> <p>2 Police Department or a police officer.</p> <p>3 Q. Have you ever discussed with</p> <p>4 Paradiso your allegation that Mr. Lamm engaged</p> <p>5 in an unlawful search or seizure? 11:38:21</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. I don't recall.</p> <p>9 Q. I think you testified about</p> <p>10 Mr. Carter allegedly sleeping while on duty, 11:38:36</p> <p>11 do you recall that?</p> <p>12 A. Yes.</p> <p>13 Q. Did you ever tell Chief Paradiso</p> <p>14 that Ed Carter was sleeping on data?</p> <p>15 A. I don't recall if I did or not. 11:38:44</p> <p>16 Q. Did you ever anyone on the board</p> <p>17 of trustees that Ed Carter was sleeping on</p> <p>18 duty?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 A. No. 11:38:52</p> <p>21 Q. Did you ever write him up for</p> <p>22 sleeping on duty?</p> <p>23 A. No.</p> <p>24 Q. So let me understand. Mr. Carter</p> <p>25 was sleeping while he was being paid as a 11:38:59</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 police officer; is that correct?</p> <p>3 A. That is correct.</p> <p>4 Q. Do you consider that stealing time</p> <p>5 from the department or from the village? 11:39:06</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. You could look at it that way,</p> <p>8 yes.</p> <p>9 Q. I am asking whether you looked at</p> <p>10 it that way? 11:39:13</p> <p>11 A. I didn't at the time, no.</p> <p>12 Q. You didn't look at it as he was</p> <p>13 stealing time while he was sleeping?</p> <p>14 A. No.</p> <p>15 Q. Did you view it as he was stealing 11:39:20</p> <p>16 money while being paid for sleeping?</p> <p>17 MR. NOVIKOFF: Objection. Isn't</p> <p>18 this beyond --</p> <p>19 MR. GOODSTADT: It is an</p> <p>20 allegation as to why he was terminated. 11:39:34</p> <p>21 MR. NOVIKOFF: Putting aside the</p> <p>22 fact that you had ten hours, and I can't</p> <p>23 speak for Kevin, but I think this is</p> <p>24 improper. Isn't this beyond the scope of</p> <p>25 any questions that I asked? 11:39:44</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 880</p> <p>1 Hesse</p> <p>2 MR. GOODSTADT: I don't think so.</p> <p>3 MR. NOVIKOFF: If I went into the</p> <p>4 issue of why he was terminated --</p> <p>5 MR. GOODSTADT: Which you did. 11:39:52</p> <p>6 MR. NOVIKOFF: Okay, you can ask</p> <p>7 him about those reasons.</p> <p>8 MR. GOODSTADT: I am.</p> <p>9 MR. NOVIKOFF: But now you are</p> <p>10 going into questions about why he didn't 11:39:59</p> <p>11 report certain things to certain people.</p> <p>12 MR. GOODSTADT: I didn't think --</p> <p>13 I believe the reasons are not true, so I</p> <p>14 can question him about it.</p> <p>15 MR. NOVIKOFF: Okay. 11:40:10</p> <p>16 MR. GOODSTADT: Just as I can</p> <p>17 question him at trial about it if it is</p> <p>18 raised. Go back to the last question.</p> <p>19 (Record read.)</p> <p>20 MR. CONNOLLY: Objection. 11:40:41</p> <p>21 A. I never looked at it that way, no.</p> <p>22 Q. Just to go back to the DA's</p> <p>23 investigation of the Halloween incident, did</p> <p>24 the DA -- strike that.</p> <p>25 Before we get to the DA's 11:41:05</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 881</p> <p>1 Hesse</p> <p>2 involvement in Halloween, you also mentioned</p> <p>3 that the judge had to sign off on your</p> <p>4 investigation before the arrests were made; is</p> <p>5 that correct? 11:41:19</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. I don't specifically think that</p> <p>8 the judge has to sign off on an investigation.</p> <p>9 No, I don't remember saying that.</p> <p>10 Q. Did the judge have to sign off 11:41:25</p> <p>11 before an arrest is made?</p> <p>12 A. No. I think you are</p> <p>13 mis-understanding what the judge signed off</p> <p>14 on.</p> <p>15 Q. What did the judge sign off on? 11:41:34</p> <p>16 A. The criminal summonses to be sent</p> <p>17 to the alleged defendants.</p> <p>18 Q. And the judge signed off on the</p> <p>19 criminal summonses that were sent to</p> <p>20 Mr. Schalik and Mr. Van Koot? 11:41:49</p> <p>21 A. I believe so. That is a court</p> <p>22 document, it is done with the court.</p> <p>23 Q. Was that same process of the court</p> <p>24 signing off on the summons performed in the</p> <p>25 Sam Gilbert matter when he was arrested? 11:42:01</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 882</p> <p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. Correct, yes.</p> <p>4 Q. How about the DA's involvement</p> <p>5 that you testified to with respect to the 11:42:12</p> <p>6 Halloween incident, did the DA have a similar</p> <p>7 involvement with respect to the Sam Gilbert</p> <p>8 matter?</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. Yes. 11:42:18</p> <p>11 Q. Has the judge ever -- strike that.</p> <p>12 Has the judge in Ocean Beach ever</p> <p>13 refused to sign a criminal summons that you</p> <p>14 brought to the judge to sign?</p> <p>15 A. Not that I am aware of, no, never. 11:42:34</p> <p>16 MR. CONNOLLY: Objection.</p> <p>17 Q. I just want to go back again to a</p> <p>18 statement that you made with respect to Mr.</p> <p>19 Fiorillo's investigation of the Halloween</p> <p>20 incident. I believe in response to one of 11:42:53</p> <p>21 Mr. Novikoff's questions you testified that it</p> <p>22 was a poorly done investigation because he was</p> <p>23 not aggressive enough to go back into the bar</p> <p>24 to get statements, do you recall that?</p> <p>25 A. Not specifically, but yes. 11:43:07</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 883</p> <p>1 Hesse</p> <p>2 Q. But you believe that he was not</p> <p>3 aggressive enough to go back into the bar to</p> <p>4 get statements?</p> <p>5 A. I think that he could have been a 11:43:16</p> <p>6 little more aggressive at speaking to people,</p> <p>7 yes.</p> <p>8 Q. Do you believe that the on-duty</p> <p>9 officers that didn't get statements from other</p> <p>10 people because they were not aggressive 11:43:23</p> <p>11 enough?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. Yes.</p> <p>14 MR. GOODSTADT: Would you mark</p> <p>15 this document, blog posting, Bates 11:43:43</p> <p>16 numbers P 962 to P 1265, Hesse Exhibit</p> <p>17 30.</p> <p>18 (Hesse Exhibit 30, blog posting, P</p> <p>19 962 to P 1265, marked for</p> <p>20 identification, as of this date.) 11:44:40</p> <p>21 Q. I placed in front of Mr. Hesse</p> <p>22 what has now been marked as Hesse Exhibit 30,</p> <p>23 multiple page exhibit bearing Bates number P</p> <p>24 962 to P 1265.</p> <p>25 MR. CONNOLLY: I have 64. 11:45:03</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 MR. GOODSTADT: It goes to the</p> <p>3 back of that page.</p> <p>4 Q. Could you turn to page P 970, post</p> <p>5 number 22. Are you there? 11:45:29</p> <p>6 A. Yes.</p> <p>7 Q. Why don't you take a second to</p> <p>8 read that post?</p> <p>9 MR. CONNOLLY: I am objecting to</p> <p>10 any questioning regarding the postings. 11:45:51</p> <p>11 You need to explain as to how they were</p> <p>12 delved into on questioning by the village</p> <p>13 attorney or the county attorney. It is</p> <p>14 beyond the scope of redirect.</p> <p>15 MR. GOODSTADT: First of all with 11:46:07</p> <p>16 respect to this post he has testified in</p> <p>17 response to questions by the beach's</p> <p>18 attorney that he believed that the</p> <p>19 officers didn't go inside to get -- or</p> <p>20 didn't appropriately go inside to get 11:46:21</p> <p>21 witness statements because they were not</p> <p>22 aggressive enough.</p> <p>23 This post clearly indicates that</p> <p>24 do you ever wonder why no one would talk</p> <p>25 to you -- did you ever notice why no one 11:46:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 would talk to you guys during your shitty</p> <p>3 investigation. Everyone hates you.</p> <p>4 Everyone knew that you were a rat.</p> <p>5 I think that that is exactly in 11:46:46</p> <p>6 response to, or at least contradicts what</p> <p>7 he has testified to in response to</p> <p>8 Mr. Novikoff.</p> <p>9 MR. NOVIKOFF: So obviously</p> <p>10 Mr. Hesse has properly identified that he 11:47:00</p> <p>11 was the author of the blog presumably</p> <p>12 based upon the interrogatory. His</p> <p>13 testimony is what it is. His blog says</p> <p>14 what it says. I am trying -- I am now</p> <p>15 trying to figure out the purpose of going 11:47:12</p> <p>16 through the blog.</p> <p>17 MR. CONNOLLY: It is duplicative.</p> <p>18 MR. GOODSTADT: It is not</p> <p>19 duplicative. It contradicts his</p> <p>20 testimony. That is exactly what redirect 11:47:27</p> <p>21 is for.</p> <p>22 MR. NOVIKOFF: Me and Mr. Connolly</p> <p>23 have different beliefs apparently as to</p> <p>24 your ten hours and what it was for. So I</p> <p>25 can't tell Mr. Hesse not to answer the 11:47:40</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Hesse</p> <p>2 question.</p> <p>3 MR. CONNOLLY: I think it is --</p> <p>4 MR. GOODSTADT: Also another basis</p> <p>5 is that he testified that in response to 11:47:46</p> <p>6 his threats that my clients would never</p> <p>7 get another job in law enforcement, that</p> <p>8 he never took any steps to prevent them</p> <p>9 from getting another job in law</p> <p>10 enforcement, and I think that statements 11:48:01</p> <p>11 on a blog where a community in law</p> <p>12 enforcement is reading it is a step.</p> <p>13 MR. NOVIKOFF: Well on that note,</p> <p>14 Andrew, I think it would be, putting</p> <p>15 aside the ten hours, we get past that 11:48:10</p> <p>16 issue, I think the question would be</p> <p>17 appropriate that you would ask him since</p> <p>18 he has admitted writing certain things on</p> <p>19 the blog, in sum and substance do you</p> <p>20 agree with the proposition that writing 11:48:24</p> <p>21 something on the blog that was not nice</p> <p>22 to your clients would be harmful to their</p> <p>23 getting jobs in the future; that is a</p> <p>24 very general question which would be</p> <p>25 responsive to that statement. 11:48:34</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 And I think there could be posed</p> <p>3 other general questions that would be</p> <p>4 responsive as opposed to going into</p> <p>5 certain blogs and each and every blog and 11:48:41</p> <p>6 going through it. That is my position,</p> <p>7 but it is Kevin's witness, so...</p> <p>8 MR. GOODSTADT: But in that case,</p> <p>9 and I don't know what the answer to that</p> <p>10 question -- 11:48:55</p> <p>11 MR. NOVIKOFF: The answer would be</p> <p>12 what it is and you would go from there.</p> <p>13 MR. GOODSTADT: But assuming he</p> <p>14 says that posting something negative or</p> <p>15 calling a police officer a rat and 11:49:02</p> <p>16 telling them that they did a shitty</p> <p>17 investigation in a forum in which other</p> <p>18 people in the police community would be</p> <p>19 reading it may affect their ability to</p> <p>20 get another job, and I want to be able to 11:49:15</p> <p>21 ask which ones he thinks would affect</p> <p>22 their ability to get another job.</p> <p>23 MR. CONNOLLY: I will allow</p> <p>24 general questions, general questions. We</p> <p>25 are not going through the blogs piece by 11:49:41</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 piece.</p> <p>3 MR. GOODSTADT: I don't see why</p> <p>4 not, I mean the door is open.</p> <p>5 MR. CONNOLLY: I disagree with 11:49:41</p> <p>6 that. I disagree that -- I still have</p> <p>7 problems with the fact that you believe</p> <p>8 the door was opened, I don't think it</p> <p>9 was.</p> <p>10 MR. GOODSTADT: I want to ask 11:49:54</p> <p>11 questions and see how open the door is.</p> <p>12 MR. NOVIKOFF: I don't know if a</p> <p>13 codefendant asks the question of another</p> <p>14 party, how that opens the door, presuming</p> <p>15 that is even appropriate in a deposition, 11:50:10</p> <p>16 to you asking questions of that witness.</p> <p>17 I can see if Mr. Connolly asked Mr. Hesse</p> <p>18 some questions that opened the door, but</p> <p>19 merely because I asked questions, Hesse</p> <p>20 is not my witness. 11:50:23</p> <p>21 I object to the fact that anything</p> <p>22 beyond ten hours is being used. I think</p> <p>23 the Judge Boyle was specific, he asked</p> <p>24 ten hours. If Mr. Goodstadt wants to</p> <p>25 reserve some time to engage in redirect 11:50:35</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 examination he certainly could have.</p> <p>3 MR. GOODSTADT: That is just not</p> <p>4 true.</p> <p>5 MR. NOVIKOFF: I am just 11:50:44</p> <p>6 objecting. I can't tell you not to do</p> <p>7 anything.</p> <p>8 MR. GOODSTADT: We had these</p> <p>9 discussions off the record about the</p> <p>10 positions on that. That is not true. 11:50:52</p> <p>11 MR. NOVIKOFF: Judge Boyle has</p> <p>12 issued whatever he has issued in terms of</p> <p>13 the amount of the deposition. Mr.</p> <p>14 Goodstadt has taken those ten hours. My</p> <p>15 position is that is all he was entitled 11:51:05</p> <p>16 to. But Mr. Hesse is not my witness so I</p> <p>17 can't, other than killing trees with my</p> <p>18 speech, I can't do anything about it.</p> <p>19 So it is between Kevin and Mr.</p> <p>20 Goodstadt to decide what they want to do 11:51:21</p> <p>21 with this, and that will be the last that</p> <p>22 I speak on this issue.</p> <p>23 MR. GOODSTADT: Certainly this</p> <p>24 question about directly contradicting</p> <p>25 testimony that he has already given, you 11:51:38</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
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<p>1 Hesse</p> <p>2 can let me ask with respect to that, and</p> <p>3 then when we get to the other questions</p> <p>4 we can narrow them down.</p> <p>5 MR. CONNOLLY: And it is your 11:51:52</p> <p>6 position that it contradicts what?</p> <p>7 MR. GOODSTADT: His testimony that</p> <p>8 the reason why they didn't get other</p> <p>9 statements was because they were not</p> <p>10 aggressive enough. Here it says nobody 11:52:30</p> <p>11 wants to speak to you because everybody</p> <p>12 hates you.</p> <p>13 MR. CONNOLLY: I don't think that</p> <p>14 was his testimony. I thought or I</p> <p>15 believe his testimony was something to 11:52:41</p> <p>16 the effect that he believes they were not</p> <p>17 aggressive as they could have been in</p> <p>18 getting statements. But I don't see what</p> <p>19 is contained in the blog as a</p> <p>20 contradiction to that statement. 11:53:01</p> <p>21 MR. GOODSTADT: Because it says do</p> <p>22 you ever wonder why no one would talk to</p> <p>23 you guys during your shitty</p> <p>24 investigation. The next sentence doesn't</p> <p>25 say because you were not aggressive 11:53:13</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 enough, it says everybody hates you.</p> <p>3 Everyone knew that you were a rat.</p> <p>4 That is why I think it contradicts</p> <p>5 it. 11:53:23</p> <p>6 MR. CONNOLLY: I don't think it</p> <p>7 contradicts it. If you want to ask him</p> <p>8 if he ever said something that he thought</p> <p>9 contradicted their not being possibly</p> <p>10 aggressive enough in obtaining 11:53:41</p> <p>11 statements.</p> <p>12 MR. GOODSTADT: I am not sure I</p> <p>13 understand what you are suggesting.</p> <p>14 MR. CONNOLLY: You can ask him if</p> <p>15 he -- I am not seeing the contradiction. 11:53:55</p> <p>16 MR. GOODSTADT: I believe it is a</p> <p>17 contradiction. Definitely obviously</p> <p>18 relates to the same issue that was asked.</p> <p>19 Asked by Mr. Novikoff, it was not asked</p> <p>20 by me originally. 11:54:21</p> <p>21 MR. CONNOLLY: What was the item</p> <p>22 asked?</p> <p>23 MR. GOODSTADT: The question was</p> <p>24 about his viewpoint on their</p> <p>25 investigation, and he said they did not 11:54:27</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 892</p> <p>1 Hesse</p> <p>2 do a good investigation, and he thought</p> <p>3 that Frank Fiorillo was not aggressive</p> <p>4 enough in obtaining witness statements.</p> <p>5 Here he is asking did you ever 11:54:36</p> <p>6 wonder why no one would talk to you guys.</p> <p>7 It has nothing to do with doing their</p> <p>8 investigation. His response isn't</p> <p>9 because you were not aggressive enough,</p> <p>10 his response is everyone hates you. 11:54:50</p> <p>11 Everyone knew then that you were a rat.</p> <p>12 MR. CONNOLLY: But they are not</p> <p>13 contradictory and not mutually exclusive.</p> <p>14 I am not following.</p> <p>15 MR. GOODSTADT: I want to know 11:55:01</p> <p>16 what he meant by that.</p> <p>17 MR. CONNOLLY: Well if it is not a</p> <p>18 contradiction I feel you are not entitled</p> <p>19 to ask it.</p> <p>20 MR. GOODSTADT: Well even if it is 11:55:08</p> <p>21 not a contradiction, it opens the door.</p> <p>22 Let's go off the record now.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 11:36, we are off the record.</p> <p>25 (Recess taken.) 11:55:22</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 893</p> <p>1 Hesse</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 12:26, we are on the record.</p> <p>4 Q. Mr. Hesse, at the last date of</p> <p>5 deposition you testified in response to one of 12:25:15</p> <p>6 Mr. Novikoff's questions that you had not done</p> <p>7 or taken any steps in furtherance of your</p> <p>8 threat that plaintiffs law enforcement careers</p> <p>9 would be over, do you recall that testimony?</p> <p>10 A. Yes. 12:25:29</p> <p>11 Q. You also I believe testified to</p> <p>12 and subsequently submitted some response to</p> <p>13 interrogatories regarding some blog posts you</p> <p>14 made, do you recall that?</p> <p>15 A. Yes. 12:25:41</p> <p>16 Q. You would agree with me, would you</p> <p>17 not, that the blog post that you admitted to</p> <p>18 posting contained some derogatory statements</p> <p>19 about the plaintiffs in this case?</p> <p>20 MR. CONNOLLY: Objection. You can 12:25:55</p> <p>21 answer.</p> <p>22 A. Yes.</p> <p>23 Q. Would you agree with me that</p> <p>24 posting the derogatory statements that you</p> <p>25 made about the plaintiffs in this case on the 12:26:07</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 894</p> <p>1 Hesse</p> <p>2 blog given the form that it is in would</p> <p>3 negatively impact their careers in law</p> <p>4 enforcement?</p> <p>5 MR. CONNOLLY: Objection. 12:26:20</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. Because to tell you the truth to 12:26:24</p> <p>11 me this is a fantasy this blog. I have been</p> <p>12 in law enforcement 16 years, I have never seen</p> <p>13 this blog until somebody told me somebody</p> <p>14 wrote something about me. So why would</p> <p>15 anybody read this garbage. 12:26:40</p> <p>16 Q. Well why would you post it if you</p> <p>17 didn't intend people to read it?</p> <p>18 A. Maybe I was venting some</p> <p>19 frustration.</p> <p>20 Q. Have you ever spoken with anybody 12:26:49</p> <p>21 outside of Ocean Beach about the blog?</p> <p>22 A. No.</p> <p>23 MR. CONNOLLY: Note my objection.</p> <p>24 A. Actually yes, I am sorry.</p> <p>25 Q. Who have you spoken with? 12:27:04</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 895</p> <p>1 Hesse</p> <p>2 A. Somebody from the Fire Island</p> <p>3 Ferry Company advised me that this blog was</p> <p>4 there, and that I should read it.</p> <p>5 Q. Who from the Fire Island Ferry 12:27:13</p> <p>6 Company?</p> <p>7 A. George Haffele, he was the vice</p> <p>8 president of the Ferry Company at the time.</p> <p>9 H-A-F-F-E-L-E, something like that.</p> <p>10 Q. Mr. Haffele is the vice president 12:27:29</p> <p>11 of the Ferry Company. Is that the ferry that</p> <p>12 takes the people back and forth to Fire</p> <p>13 Island?</p> <p>14 A. Yes.</p> <p>15 Q. Have you spoken to anybody else 12:27:43</p> <p>16 outside of Fire Island other than Mr. Haffele</p> <p>17 about the blog?</p> <p>18 A. No.</p> <p>19 Q. What was your intention in posting</p> <p>20 the negative statements about the plaintiffs 12:27:55</p> <p>21 in this matter?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Well, these were posts directed at</p> <p>25 other posts, maybe just to upset them a little 12:28:04</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 896</p> <p>1 Hesse</p> <p>2 bit.</p> <p>3 Q. What do you mean by that, by</p> <p>4 either one, posts directed at other posts,</p> <p>5 what did you mean by that? 12:28:14</p> <p>6 A. Well most of these posts are</p> <p>7 directed at posts that were previously made.</p> <p>8 Q. What did you mean to upset them?</p> <p>9 A. The plaintiffs.</p> <p>10 Q. Would you agree with me that if 12:28:22</p> <p>11 another chief or a person of seniority in</p> <p>12 another police department were to read the</p> <p>13 negative statements that you made about my</p> <p>14 clients that it could affect their decision on</p> <p>15 whether to hire one of my clients? 12:28:42</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 A. To think of what somebody else</p> <p>19 might think; I couldn't speculate.</p> <p>20 Q. So you have no opinion one way or 12:28:50</p> <p>21 the other?</p> <p>22 MR. CONNOLLY: Objection.</p> <p>23 A. No.</p> <p>24 Q. Who within the department have you</p> <p>25 spoken with about the blogs? 12:29:10</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 897</p> <p>1 Hesse</p> <p>2 A. Specifically John Cherry and I</p> <p>3 recently have spoken about it.</p> <p>4 Q. Anybody else?</p> <p>5 A. No, not really. 12:29:25</p> <p>6 Q. You said that it was in response</p> <p>7 to other posts, do you recall that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have any evidence or</p> <p>10 information that any posts in the blog was 12:29:35</p> <p>11 posted by any of the plaintiffs in this</p> <p>12 matter?</p> <p>13 MR. CONNOLLY: Other than the</p> <p>14 contents of the blog; I am not quite sure</p> <p>15 I understand the question. 12:29:48</p> <p>16 Q. Well any contents of the blog?</p> <p>17 A. Do I have prove?</p> <p>18 Q. Any evidence, information, proof</p> <p>19 or the like that any of the plaintiffs posted</p> <p>20 on the blog? 12:29:59</p> <p>21 A. I have no proof.</p> <p>22 Q. I don't want to be narrowly</p> <p>23 tailored just to the word proof because I</p> <p>24 think that that has a sort of legal term. I</p> <p>25 want to know if you have any evidence or other 12:30:12</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 898</p> <p>1 Hesse</p> <p>2 information that would lead you to conclude</p> <p>3 that the plaintiffs posted -- any of the</p> <p>4 plaintiffs posted on the blog?</p> <p>5 A. Well the only one that I know for 12:30:21</p> <p>6 sure is the one that Tommy Snyder wrote</p> <p>7 because he identified himself. Other than</p> <p>8 that no.</p> <p>9 Q. I want to go back to some of the</p> <p>10 statements that you made -- strike that. 12:30:47</p> <p>11 When you said, I believe you</p> <p>12 called it a fantasy, is that what you called</p> <p>13 the blog?</p> <p>14 A. Yes.</p> <p>15 Q. Who did you understand would be 12:30:58</p> <p>16 reading the blog?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 A. I don't know. I could probably</p> <p>20 speculate that members of the Ocean Beach 12:31:05</p> <p>21 Police Department and the plaintiffs.</p> <p>22 Q. Anybody else?</p> <p>23 A. I don't know.</p> <p>24 Q. It is publicly available the blog;</p> <p>25 is that correct? 12:31:15</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 899</p> <p>1 Hesse</p> <p>2 A. Sure.</p> <p>3 Q. Did you ever discuss the blog with</p> <p>4 any residents of Ocean Beach?</p> <p>5 A. No. 12:31:20</p> <p>6 Q. I just want to go back again to</p> <p>7 some of the statements that you made in</p> <p>8 response to Mr. Novikoff's questions about the</p> <p>9 reasons why you selected the plaintiffs for</p> <p>10 termination. 12:31:39</p> <p>11 I believe you testified that you</p> <p>12 selected Nofi in part because he approached</p> <p>13 people inappropriately?</p> <p>14 A. That was part of it, yes.</p> <p>15 Q. Did you ever write him up for 12:31:51</p> <p>16 that?</p> <p>17 A. No.</p> <p>18 Q. Did you ever speak with Chief</p> <p>19 Paradiso about that?</p> <p>20 A. I don't recall. 12:31:56</p> <p>21 Q. Did you ever suggest to Chief</p> <p>22 Paradiso that Joe Nofi should be terminated</p> <p>23 for the way he approached people?</p> <p>24 A. You know I don't recall.</p> <p>25 Q. Is there anything that you could 12:32:05</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 think of that would refresh your recollection?</p> <p>3 A. No.</p> <p>4 Q. Did you ever discipline Nofi for</p> <p>5 doing that, for inappropriately approaching 12:32:16</p> <p>6 people?</p> <p>7 A. Verbally.</p> <p>8 Q. How many times?</p> <p>9 A. I don't know.</p> <p>10 Q. Was anyone else present? 12:32:24</p> <p>11 A. Not that I am aware of, no.</p> <p>12 Q. Why didn't you write him up for</p> <p>13 it?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. I didn't think he needed to be 12:32:30</p> <p>16 written up.</p> <p>17 Q. You didn't think it was to a level</p> <p>18 that needed to be written up.</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 A. No. 12:32:37</p> <p>21 Q. I believe that you said one of the</p> <p>22 reasons why you selected Mr. Carter for</p> <p>23 termination was that he was hidy tidy, do you</p> <p>24 recall using that phrase?</p> <p>25 A. Hidy tidy; no, I don't remember 12:32:47</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 using that phrase.</p> <p>3 Q. Do you know what that phrase</p> <p>4 means, hidy tidy?</p> <p>5 A. I have no idea. 12:32:59</p> <p>6 Q. Did you ever personally witness Ed</p> <p>7 Carter sleeping?</p> <p>8 A. Yes.</p> <p>9 Q. While he was not on break and</p> <p>10 being paid? 12:33:07</p> <p>11 A. Yes.</p> <p>12 Q. How many times?</p> <p>13 A. Repeat that, on break or --</p> <p>14 Q. Not on break and being paid?</p> <p>15 A. And being paid, yes. 12:33:14</p> <p>16 Q. How many times?</p> <p>17 A. I don't recall how many times.</p> <p>18 Q. Did you ever discuss it with the</p> <p>19 chief, meaning Chief Paradiso?</p> <p>20 A. I don't recall if I did or not. 12:33:23</p> <p>21 Q. Is there anything that you can</p> <p>22 think of that would refresh your recollection?</p> <p>23 A. No.</p> <p>24 Q. Did you ever discuss it or address</p> <p>25 this issue with any members of the board of 12:33:30</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
Page 902	Page 903
<p>1 Hesse</p> <p>2 trustees of Ocean Beach?</p> <p>3 A. No.</p> <p>4 Q. Did you ever discuss it with the</p> <p>5 mayor, either the current mayor or any former 12:33:36</p> <p>6 mayor of Ocean Beach the issue that you saw Ed</p> <p>7 Carter sleeping?</p> <p>8 A. No.</p> <p>9 Q. Did you dock Mr. Carter pay for</p> <p>10 the time that he was allegedly sleeping on 12:33:46</p> <p>11 duty?</p> <p>12 A. No.</p> <p>13 Q. I believe you testified that the</p> <p>14 reason why you selected Snyder for termination</p> <p>15 was, you mentioned something about personal 12:34:03</p> <p>16 issues and that he got sick and he had some</p> <p>17 money issues, and at the end of his employment</p> <p>18 he was angry. Do you recall saying that?</p> <p>19 A. Yes.</p> <p>20 Q. What did you mean by that? 12:34:14</p> <p>21 A. He was not getting along with</p> <p>22 members of the Police Department. There were</p> <p>23 problems between them. And just the general</p> <p>24 notion of the public, just dealings with them.</p> <p>25 His attitude was just not right or conducive 12:34:29</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 to the community that we worked for.</p> <p>3 Q. Did you ever receive any</p> <p>4 complaints from any members of the public</p> <p>5 about Mr. Snyder? 12:34:39</p> <p>6 A. Yes.</p> <p>7 Q. How many times?</p> <p>8 A. I don't know, I don't recall.</p> <p>9 Q. Did you receive it in writing?</p> <p>10 A. No. 12:34:43</p> <p>11 Q. Verbally?</p> <p>12 A. Yes.</p> <p>13 Q. Anybody else there when you</p> <p>14 received complaints about Mr. Snyder verbally?</p> <p>15 A. I don't know. 12:34:49</p> <p>16 Q. Who complained about Mr. Snyder?</p> <p>17 A. I don't remember names.</p> <p>18 Q. When did you receive those</p> <p>19 complaints?</p> <p>20 A. I guess towards the end of 2005 12:34:54</p> <p>21 specifically.</p> <p>22 Q. Do you recall when in 2005?</p> <p>23 A. Maybe in the month of August.</p> <p>24 Q. What were the complaints?</p> <p>25 A. Just, you know, one guy in 12:35:05</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 904</p> <p>1 Hesse</p> <p>2 particular he came up to me and said that --</p> <p>3 he didn't know the officer's names, but he</p> <p>4 described Snyder and Fiorillo specifically,</p> <p>5 and he said, you know, I am walking down the 12:35:19</p> <p>6 street and it was late, it was dark, and I</p> <p>7 came around a bush, the two cops were standing</p> <p>8 there. He said they, in his words, they</p> <p>9 attacked him because they thought that he was</p> <p>10 urinating in a bush. 12:35:37</p> <p>11 Meanwhile he was just walking</p> <p>12 around the corner and that they roused him,</p> <p>13 they threw him in the bushes. I don't even</p> <p>14 remember his name, but I asked him do you want</p> <p>15 to put it in writing. He stated no, and that 12:35:51</p> <p>16 was it. I didn't even bring it to their</p> <p>17 attention at the time.</p> <p>18 Q. So just let me understand this. A</p> <p>19 civilian claimed that he was roughed up,</p> <p>20 attacked, thrown in the bushes by Mr. Snyder 12:36:05</p> <p>21 and Mr. Fiorillo, and you didn't even address</p> <p>22 it with them; is that correct?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Yes. Correct.</p> <p>25 Q. Did you speak to Chief Paradiso 12:36:14</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 905</p> <p>1 Hesse</p> <p>2 about it?</p> <p>3 A. I don't recall if I did or not.</p> <p>4 Q. Did you take any notes of your</p> <p>5 conversation with the civilian who came in to 12:36:22</p> <p>6 make the complaint?</p> <p>7 A. No, he didn't want to put it in</p> <p>8 writing, he said no.</p> <p>9 Q. I am asking whether you put it in</p> <p>10 writing? 12:36:31</p> <p>11 A. No.</p> <p>12 Q. I assume you didn't address it</p> <p>13 with Snyder and Fiorillo; you took no steps to</p> <p>14 discipline them?</p> <p>15 A. No. 12:36:38</p> <p>16 Q. Any other complaints about Snyder</p> <p>17 from members of the public?</p> <p>18 A. Not that I specifically recall.</p> <p>19 Q. And is there anything that you</p> <p>20 could think of that would refresh your 12:36:48</p> <p>21 recollection?</p> <p>22 A. No, just my observations.</p> <p>23 Q. Did you ever receive anything in</p> <p>24 writing from -- anything negative about Snyder</p> <p>25 from anybody in the public? 12:36:59</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 906</p> <p>1 Hesse</p> <p>2 A. I don't recall. I don't know if</p> <p>3 anything is in his file.</p> <p>4 Q. Which police officers was he not</p> <p>5 getting along with? 12:37:04</p> <p>6 A. I believe there was -- well, let's</p> <p>7 see. There would be Ty Bacon. There would be</p> <p>8 Rich Bosetti, Gary Bosetti, Walter Muller. I</p> <p>9 believe Paul Carollo had some issues with him.</p> <p>10 I don't know about any others right now. 12:37:20</p> <p>11 Q. Do you know why they were not</p> <p>12 getting along?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. Specifically no, not really.</p> <p>15 Q. Generally? 12:37:38</p> <p>16 A. Generally no.</p> <p>17 Q. Did it have anything to do with</p> <p>18 the Halloween incident?</p> <p>19 A. It could.</p> <p>20 Q. You don't know one way or the 12:37:43</p> <p>21 other?</p> <p>22 A. No.</p> <p>23 Q. Now going back to, I believe you</p> <p>24 mentioned Walter Muller. Is Mr. Muller a</p> <p>25 friend of yours? 12:37:59</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 907</p> <p>1 Hesse</p> <p>2 A. Yes, we are friends.</p> <p>3 Q. Did you ever travel with</p> <p>4 Mr. Muller?</p> <p>5 A. Sure. 12:38:03</p> <p>6 Q. Did you ever go fishing together?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever go out socially with</p> <p>9 the families?</p> <p>10 A. Yes. 12:38:10</p> <p>11 Q. And I want to go back to the</p> <p>12 incident with Dr. Guida that you testified to</p> <p>13 before. You testified after the incident you</p> <p>14 yelled at the group of officers; is that</p> <p>15 correct? 12:38:27</p> <p>16 A. Yes.</p> <p>17 Q. Who was in that group?</p> <p>18 A. Lappena which was a dock master.</p> <p>19 Fiorillo. I can't think of his name, Matt</p> <p>20 O'Malley who happens to be a Suffolk County 12:38:40</p> <p>21 police officer. I don't remember who else was</p> <p>22 there.</p> <p>23 Q. Why did you yell at them?</p> <p>24 A. I just didn't like the way the</p> <p>25 call went and the actions that they took. I 12:38:59</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 908</p> <p>1 Hesse</p> <p>2 think they should have been a little more</p> <p>3 aware of what was going on around them before</p> <p>4 they just jumped into a melee.</p> <p>5 Q. Do you recall what you said to 12:39:09</p> <p>6 them about that?</p> <p>7 A. Specifically no.</p> <p>8 Q. Did you write anyone up for the</p> <p>9 incident?</p> <p>10 A. No. 12:39:15</p> <p>11 Q. You didn't write up Kenny Lappena?</p> <p>12 A. No.</p> <p>13 Q. Did you ever ask Frank Fiorillo</p> <p>14 why he put Muller in a head lock if it was</p> <p>15 somebody else who punched their girlfriend? 12:39:25</p> <p>16 A. You got to ask the question again.</p> <p>17 Q. The question is did you ever ask</p> <p>18 Frank Fiorillo why he would put Walter Muller</p> <p>19 in a head lock if it was Dr. Guida who punched</p> <p>20 his own girlfriend? 12:39:41</p> <p>21 A. I don't really recall.</p> <p>22 Q. You don't recall asking him?</p> <p>23 A. I just don't recall, no.</p> <p>24 Q. Do you know why he did that?</p> <p>25 MR. CONNOLLY: Objection. 12:39:50</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 909</p> <p>1 Hesse</p> <p>2 A. At this time right now I don't</p> <p>3 remember.</p> <p>4 Q. Fiorillo ever tell you that it was</p> <p>5 Muller who struck somebody? 12:39:54</p> <p>6 A. No. Not until this.</p> <p>7 Q. Did you write up Fiorillo for</p> <p>8 putting Walter Muller in a head lock?</p> <p>9 A. No.</p> <p>10 Q. I believe you testified that 12:40:07</p> <p>11 Muller was not intoxicated, did you testify to</p> <p>12 that?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. I don't know either way if I did</p> <p>15 or not. 12:40:16</p> <p>16 Q. Do you whether he was intoxicated?</p> <p>17 A. I don't believe he was.</p> <p>18 Q. Did you take a breathalyzer?</p> <p>19 A. No.</p> <p>20 Q. Did you ask him if he was 12:40:23</p> <p>21 intoxicated?</p> <p>22 A. No.</p> <p>23 Q. If Fiorillo actually witnessed</p> <p>24 Muller punch his girlfriend or was told that</p> <p>25 Muller had punched his girlfriend, would it be 12:40:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 910</p> <p>1 Hesse</p> <p>2 improper for Fiorillo to put him in a head</p> <p>3 lock to restrain him?</p> <p>4 MR. CONNOLLY: Objection.</p> <p>5 A. Just based on somebody telling 12:40:43</p> <p>6 him, no.</p> <p>7 Q. How about if he witnessed it?</p> <p>8 A. Not necessarily.</p> <p>9 Q. Would it be necessarily improper</p> <p>10 for him to do it? 12:40:53</p> <p>11 A. Well you got to give me better</p> <p>12 circumstances than just punching his</p> <p>13 girlfriend. Was there a previous punch, was</p> <p>14 it after the fact, was it happening at that</p> <p>15 time. You are speculating on a lot of things 12:41:02</p> <p>16 here, I don't know.</p> <p>17 Q. I want to know if it -- if it</p> <p>18 would ever be improper -- well strike that.</p> <p>19 Would it ever be proper for Fiorillo to put</p> <p>20 somebody in a head lock that he had seen punch 12:41:15</p> <p>21 his girlfriend?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. If it was a way of restraining him</p> <p>25 I guess it would be proper. 12:41:25</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 911</p> <p>1 Hesse</p> <p>2 Q. Does it matter whether Muller was</p> <p>3 an officer or wasn't an officer if the level</p> <p>4 of altercation required him to restrain the</p> <p>5 person? 12:41:37</p> <p>6 A. I don't think it would have</p> <p>7 mattered, no.</p> <p>8 Q. Just so I am clear, it was not the</p> <p>9 fact that Muller was an officer that you were</p> <p>10 upset with Fiorillo, was it? 12:41:50</p> <p>11 MR. CONNOLLY: Objection.</p> <p>12 A. I never said I was upset with</p> <p>13 Fiorillo.</p> <p>14 Q. You were upset with the way --</p> <p>15 A. It was a general with all of them 12:42:02</p> <p>16 jumping into a melee that was going on on the</p> <p>17 boat. And it really was directed at the</p> <p>18 civilian employee, the dock master Kenny</p> <p>19 Lappena, who happened to get hurt, and that is</p> <p>20 why I yelled at them as a group. 12:42:15</p> <p>21 Q. So sitting here today do you know</p> <p>22 why Fiorillo put Muller in a head lock?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. I don't recall right now, no.</p> <p>25 Q. You testified in response to a 12:42:29</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 912</p> <p>1 Hesse</p> <p>2 question that Mr. Novikoff asked you about</p> <p>3 whether Frank Fiorillo -- whether you ever</p> <p>4 directed Frank Fiorillo to drive you to a</p> <p>5 residence for a non-police business. Do you 12:42:46</p> <p>6 recall that?</p> <p>7 A. Yes.</p> <p>8 Q. You testified that you never</p> <p>9 instructed him to do that; correct?</p> <p>10 A. No. 12:42:55</p> <p>11 Q. Did he ever actually drive you to</p> <p>12 a residence for a non-police business?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. He may have.</p> <p>15 Q. Well the question before was he 12:43:02</p> <p>16 never instructed him, the question is now</p> <p>17 whether he actually drove him?</p> <p>18 A. He may have, I don't recall him</p> <p>19 ever driving me anywhere.</p> <p>20 Q. Do you recall him ever picking you 12:43:12</p> <p>21 up from a residence for non-police business?</p> <p>22 A. No.</p> <p>23 Q. You testified before about an</p> <p>24 incident where you went up to the apartment</p> <p>25 that there was the beer pouring incident, do 12:43:27</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 913</p> <p>1 Hesse</p> <p>2 you recall that?</p> <p>3 A. Yes.</p> <p>4 Q. You testified that you found a</p> <p>5 pipe -- you found a pipe used for smoking 12:43:32</p> <p>6 marijuana, do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know whose pipe it was?</p> <p>9 A. No.</p> <p>10 Q. Did you attempt to find out whose 12:43:41</p> <p>11 pipe it was?</p> <p>12 A. I asked.</p> <p>13 Q. Did you check to see if there was</p> <p>14 any marijuana in the pipe?</p> <p>15 A. Yes. 12:43:51</p> <p>16 Q. Was there any marijuana in the</p> <p>17 pipe?</p> <p>18 A. No.</p> <p>19 Q. Was there any remnants of</p> <p>20 marijuana in the pipe? 12:43:54</p> <p>21 A. It looked like something was</p> <p>22 smoked out of it -- no.</p> <p>23 Q. That give you probable cause to</p> <p>24 search to see if there was drugs in the</p> <p>25 apartment? 12:44:07</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 914</p> <p>1 Hesse</p> <p>2 A. I didn't feel there was enough.</p> <p>3 Q. Did you search to see if there was</p> <p>4 any drugs in the apartment?</p> <p>5 A. No. 12:44:12</p> <p>6 Q. Why would you throw a marijuana</p> <p>7 pipe into the bay as opposed to taking it back</p> <p>8 to the police station?</p> <p>9 A. Because if I took it back to the</p> <p>10 police station it would be just sitting around 12:44:22</p> <p>11 until I could dispose of it. It was easier to</p> <p>12 just show the kid that I took it and threw it</p> <p>13 into the bay so he could no longer using.</p> <p>14 Q. What kid?</p> <p>15 A. I suspected it was this kid John 12:44:35</p> <p>16 that I wrote a summons to.</p> <p>17 Q. Did you write him a summons for</p> <p>18 possessing drug paraphernalia?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 A. No. 12:44:50</p> <p>21 Q. Did you record the incident</p> <p>22 anywhere in writing?</p> <p>23 MR. NOVIKOFF: Objection. What</p> <p>24 incident?</p> <p>25 Q. The fact that you found a 12:44:55</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 915</p> <p>1 Hesse</p> <p>2 marijuana pipe and anything you may have done</p> <p>3 with it?</p> <p>4 A. No, I don't believe so.</p> <p>5 Q. Why not? 12:45:01</p> <p>6 A. I didn't think it was necessary.</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. You could buy those on any street</p> <p>9 corner.</p> <p>10 Q. But this one wasn't a brand new 12:45:14</p> <p>11 one bought on the street corner, you said</p> <p>12 there was evidence that marijuana was smoked</p> <p>13 in it; correct?</p> <p>14 A. I didn't say marijuana, I said</p> <p>15 anything. 12:45:23</p> <p>16 Q. Something?</p> <p>17 A. Yes.</p> <p>18 Q. Did you smell it?</p> <p>19 A. I smelled it.</p> <p>20 Q. What did it smell like? 12:45:27</p> <p>21 A. Burned ash.</p> <p>22 Q. Marijuana ash or cigarette ash?</p> <p>23 A. Not specifically that I remember.</p> <p>24 Q. Do you know what marijuana smells</p> <p>25 like? 12:45:35</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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1 Hesse
2 A. Oh yeah.
3 Q. Did you ever keep any drugs or
4 drug paraphernalia in your drawer?
5 A. Oh yeah. 12:45:45
6 MR. CONNOLLY: Objection.
7 Q. Did you lock that drawer every
8 time -- was that drawer always locked?
9 MR. CONNOLLY: Objection.
10 A. No. 12:45:53
11 Q. Why would you leave drugs or drug
12 paraphernalia in your drawer?
13 A. That is the only place that we had
14 to store it.
15 Q. Did you have an evidence box that 12:46:01
16 was locked?
17 A. We had a safe, 50/50 chance to get
18 in it. It was already overwhelmed with drugs.
19 Q. What do you mean by 50/50
20 channels? 12:46:15
21 A. The thing is probably from the
22 1940s and when you turned the dial it doesn't
23 always set right.
24 Q. So you may not be able to get into
25 it? 12:46:25
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Page 918

1 Hesse
2 Is there an age minimum to deliver
3 beer?
4 MR. NOVIKOFF: Objection.
5 A. I don't believe there is an age 12:47:17
6 requirement for the delivery. But to sell is
7 like a bartender or waiter or waitress I
8 believe you have to be 18.
9 Q. And Paul Conway was 20?
10 A. I believe he was 20 at the time, 12:47:31
11 yes.
12 Q. And then there was some testimony
13 about the fact that you did not instruct any
14 of the plaintiffs not to issue citations to
15 minors, do you recall that? 12:47:48
16 A. Yes.
17 Q. If you were to instruct an officer
18 not to issue citation for minors, would you be
19 violating any laws?
20 MR. CONNOLLY: Objection. 12:47:59
21 MR. NOVIKOFF: Objection.
22 MR. CONNOLLY: Hypothetical.
23 Q. Yes.
24 A. I don't think I would be violating
25 any laws. I think it would be an immoral 12:48:07
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1 Hesse
2 A. Right.
3 Q. Just so I am clear, you left drugs
4 or strike that -- you left drugs in your
5 drawer unsecured? 12:46:33
6 MR. CONNOLLY: Objection.
7 A. It was in the confines of the
8 Police Department, yes.
9 Q. But it was not locked?
10 A. It was not locked. We didn't have 12:46:38
11 locking cabinets at the time.
12 Q. You left drug paraphernalia in the
13 drawer as well?
14 A. Yes, it was all in an evidence bag
15 sealed in my drawer. 12:46:48
16 Q. I want to go back to one other
17 question, well a couple of questions, with
18 respect to the incident where Paul Conway was
19 delivering the beer, do you recall that?
20 A. Yes. 12:47:04
21 Q. Is there a certain age minimum to
22 deliver beer or to sell beer?
23 MR. NOVIKOFF: Objection.
24 MR. CONNOLLY: Objection.
25 Q. I will break it down. 12:47:11
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1 Hesse
2 order.
3 Q. Do you recall an incident in 2005
4 when Ed Carter brought a minor into the police
5 station who he wanted to issue a summons to 12:48:39
6 who was served alcohol at CJ's?
7 A. No.
8 Q. Do you recall an incident where
9 Carter wanted to issue CJ's a citation for
10 serving alcohol to a minor in the fall of 12:48:59
11 2005?
12 A. No.
13 Q. Who owns McGuire's?
14 MR. GOODSTADT: At which juncture?
15 Q. In 2005? 12:49:14
16 A. 2005, I think there is a couple of
17 owners, Jimmy something.
18 Q. Jimmy Betts?
19 A. Yes.
20 Q. Let's focus on Jimmy Betts -- 12:49:23
21 MR. NOVIKOFF: Can I ask one
22 question. I don't recall ever talking to
23 him about McGuire's or anything involving
24 McGuire's.
25 MR. GOODSTADT: Well you talked to 12:49:34
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<p style="text-align: right;">Page 920</p> <p>1 Hesse</p> <p>2 him about instructing officers not to</p> <p>3 issue summons when --</p> <p>4 MR. NOVIKOFF: Fine.</p> <p>5 Notwithstanding my overall objection. 12:49:41</p> <p>6 MR. GOODSTADT: Okay.</p> <p>7 Q. Jimmy Betts was the owner of</p> <p>8 McGuire's in 2005?</p> <p>9 A. I believe in 2005.</p> <p>10 Q. Do you recall an incident in the 12:49:53</p> <p>11 summer of 2005 where Carter wanted to issue</p> <p>12 Mr. Betts a summons for writing his bicycle</p> <p>13 after hours without a light?</p> <p>14 A. Do I recall that?</p> <p>15 MR. NOVIKOFF: Objection. That is 12:50:07</p> <p>16 kind of what I am objecting to starting</p> <p>17 the question off do you recall. If he</p> <p>18 answers no it can go both ways whether he</p> <p>19 didn't recall it or it never happened.</p> <p>20 So I object to the form of the question. 12:50:22</p> <p>21 Q. Would it be -- in the summer of</p> <p>22 2005 I know you said there were some changes</p> <p>23 in the rules with respect to the silly bicycle</p> <p>24 riding rules. In the summer of 2005 was there</p> <p>25 an ordinance where if somebody was riding a 12:50:38</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 921</p> <p>1 Hesse</p> <p>2 bicycle after hours they needed a light?</p> <p>3 MR. NOVIKOFF: Objection.</p> <p>4 A. Yes, when it was dark out.</p> <p>5 MR. CONNOLLY: Assuming an 12:50:47</p> <p>6 operating light.</p> <p>7 MR. GOODSTADT: Yes.</p> <p>8 A. Flashlight.</p> <p>9 Q. They could have a flashlight?</p> <p>10 A. It has to be in a holder. 12:50:54</p> <p>11 Q. Just going back to the question</p> <p>12 that Mr. Novikoff objected to. In response to</p> <p>13 Mr. Novikoff's objection I just want to</p> <p>14 rephrase a question.</p> <p>15 Did there come a point in time in 12:51:42</p> <p>16 the summer of 2005 where Ed Carter wanted to</p> <p>17 issue a summons to Jimmy Betts for riding his</p> <p>18 bicycle after hours without a light?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 A. No. 12:51:57</p> <p>21 Q. It didn't happen?</p> <p>22 A. I don't think so.</p> <p>23 Q. Is it possible that it happened</p> <p>24 and you don't recall it?</p> <p>25 MR. CONNOLLY: Objection. 12:52:03</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 922</p> <p>1 Hesse</p> <p>2 A. I don't think so.</p> <p>3 Q. It is not possible?</p> <p>4 A. No, it didn't happen.</p> <p>5 Q. Did you ever accompany Ed Carter 12:52:14</p> <p>6 to an apartment on Bay Walk and Ocean Breeze,</p> <p>7 I believe those two streets cross each other?</p> <p>8 A. Yes, they do, they intersect.</p> <p>9 Q. Do you recall accompanying</p> <p>10 Mr. Carter to an apartment on that corner 12:52:34</p> <p>11 where there were under age drinkers?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. No.</p> <p>14 Q. So you don't recall ever being in</p> <p>15 that apartment with Mr. Carter? 12:52:46</p> <p>16 A. No.</p> <p>17 Q. Just go back to the incident with</p> <p>18 the beer spilling, do you recall that</p> <p>19 incident?</p> <p>20 A. Yes. 12:53:10</p> <p>21 Q. Who did you say the leaseholder</p> <p>22 was?</p> <p>23 A. I didn't.</p> <p>24 Q. Do you know who the leaseholder</p> <p>25 was on the apartment? 12:53:17</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 923</p> <p>1 Hesse</p> <p>2 A. The leaseholder, no.</p> <p>3 Q. Do you know who the owner of the</p> <p>4 apartment is?</p> <p>5 A. The owner of the building. 12:53:21</p> <p>6 Q. Yes.</p> <p>7 A. Billy Svingos.</p> <p>8 Q. He was the owner in 2003, 2004,</p> <p>9 and 2005?</p> <p>10 A. Yes. 12:53:30</p> <p>11 Q. I thought you mentioned a John who</p> <p>12 was a leaseholder?</p> <p>13 MR. CONNOLLY: He didn't use the</p> <p>14 phrase leaseholder. I think the record</p> <p>15 would correct me if I am mistaken, 12:53:37</p> <p>16 renter.</p> <p>17 Q. Is it possible that there was a</p> <p>18 renter named John up there?</p> <p>19 A. I believe he was one of the</p> <p>20 renters. I believe it was a group of them. 12:53:48</p> <p>21 Q. So it was like a share house?</p> <p>22 A. Something like that, yes.</p> <p>23 Q. So just so I understand, one</p> <p>24 leaseholder and the leaseholder would sell out</p> <p>25 shares to other renters; is that how it works? 12:53:56</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 924</p> <p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. Yes, kind of how it works.</p> <p>4 Q. This guy John, he was one of the</p> <p>5 renters? 12:54:04</p> <p>6 A. I believe he was, yes.</p> <p>7 Q. What summons did you write?</p> <p>8 A. I believe it was for noise. Noise</p> <p>9 violation.</p> <p>10 Q. So you didn't write any kind of 12:54:11</p> <p>11 summons with respect to spilling alcohol on</p> <p>12 the officers?</p> <p>13 A. No.</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 Q. You didn't write any kind of 12:54:23</p> <p>16 summons with respect to the fact that there</p> <p>17 was drug paraphernalia in the apartment?</p> <p>18 A. The pipe; no.</p> <p>19 Q. Who did you enter the apartment</p> <p>20 with? 12:54:50</p> <p>21 A. Tom Snyder and Kevin Lamm.</p> <p>22 Q. Anyone else?</p> <p>23 A. I don't recall if anybody else was</p> <p>24 there.</p> <p>25 Q. Ever been in that apartment with 12:54:58</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 925</p> <p>1 Hesse</p> <p>2 Paul Carollo?</p> <p>3 A. I don't recall if I was or not.</p> <p>4 Q. Who is Jason Maldonado?</p> <p>5 A. No idea. 12:55:08</p> <p>6 Q. Do you know who Robert Steinhauser</p> <p>7 is?</p> <p>8 A. No idea.</p> <p>9 Q. How about Brian Weinberg?</p> <p>10 A. No idea. 12:55:14</p> <p>11 MR. GOODSTADT: Give me one minute</p> <p>12 off the record just to review what I</p> <p>13 have.</p> <p>14 MR. NOVIKOFF: Go off the record.</p> <p>15 THE VIDEOGRAPHER: The time is 12:55:32</p> <p>16 12:57, we are off the record.</p> <p>17 (Recess taken.)</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 12:58, we are on the record.</p> <p>20 MR. GOODSTADT: I have nothing 12:57:16</p> <p>21 further at this time.</p> <p>22 EXAMINATION BY</p> <p>23 MR. NOVIKOFF:</p> <p>24 Q. Mr. Hesse, I think I have no less</p> <p>25 than three minutes worth of questions, maybe 12:57:23</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 926</p> <p>1 Hesse</p> <p>2 more than three questions.</p> <p>3 You mentioned in response to Mr.</p> <p>4 Goodstadt that Mr. Snyder communicated to you</p> <p>5 about an illegal search and seizure by Lamm, 12:57:33</p> <p>6 do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. What did Mr. Snyder specifically</p> <p>9 say about that?</p> <p>10 A. He said that Kevin Lamm went up 12:57:37</p> <p>11 the back alley of CJ's behind the bar, came in</p> <p>12 the bar door and made a statement that he was</p> <p>13 going to -- he doesn't give a shit who you</p> <p>14 people are, he is going to get all of you. In</p> <p>15 reference to what I don't know, he went into 12:57:56</p> <p>16 the kitchen, he was looking for something. He</p> <p>17 went into the bathroom looking for something.</p> <p>18 And Tom Snyder said that he didn't agree with</p> <p>19 it. He even said something to Kevin about it.</p> <p>20 Q. So this was Snyder telling you 12:58:08</p> <p>21 that Lamm said in words and effect I don't</p> <p>22 give a shit who you are?</p> <p>23 A. Correct.</p> <p>24 Q. Now Mr. Goodstadt asked you a</p> <p>25 question with regard to showing -- well, Mr. 12:58:19</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 927</p> <p>1 Hesse</p> <p>2 Goodstadt asked you a question and you</p> <p>3 responded with regard to you showing Lamm,</p> <p>4 Snyder and Fiorillo at various times the file</p> <p>5 of the investigation? 12:58:35</p> <p>6 A. Yes.</p> <p>7 Q. I think Mr. Goodstadt would be</p> <p>8 objecting based upon your non-responsiveness,</p> <p>9 so let me ask you this question.</p> <p>10 Did you ever show Mr. Lamm a copy 12:58:44</p> <p>11 of the investigative file of the Halloween</p> <p>12 incident?</p> <p>13 A. Yes.</p> <p>14 Q. And Mr. Lamm didn't want to look</p> <p>15 at it? 12:58:51</p> <p>16 A. Correct.</p> <p>17 Q. At the time when you showed --</p> <p>18 where did you show Lamm this?</p> <p>19 A. In the police station.</p> <p>20 Q. Did Lamm at the time that you 12:59:02</p> <p>21 showed him make any reference to his belief</p> <p>22 that you were covering up anything?</p> <p>23 A. I don't remember specifically.</p> <p>24 Q. With regard to you showing</p> <p>25 Fiorillo the investigative file, let me ask 12:59:13</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

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<p>1 Hesse</p> <p>2 you this so there is no objection, did you</p> <p>3 show Fiorillo the investigative file?</p> <p>4 A. Yes.</p> <p>5 Q. Where did you show it to him? 12:59:21</p> <p>6 A. In the same exact spot actually.</p> <p>7 Q. Was Mr. Fiorillo pleased or</p> <p>8 displeased with regard to what he read?</p> <p>9 MR. GOODSTADT: Objection.</p> <p>10 A. He seemed to be very happy to read 12:59:32</p> <p>11 it, and he said there was a lot of things that</p> <p>12 they didn't know.</p> <p>13 Q. They being whom?</p> <p>14 A. The three officers.</p> <p>15 Q. Let me ask you this then. What if 12:59:40</p> <p>16 anything did Mr. Fiorillo say to you upon</p> <p>17 subsequent to his reading of the investigative</p> <p>18 file concerning the fact that he looked at the</p> <p>19 file?</p> <p>20 MR. GOODSTADT: Objection. 12:59:49</p> <p>21 A. There was nothing derogatory other</p> <p>22 than he made some statements that he didn't</p> <p>23 know that certain things had transpired.</p> <p>24 Q. Certain things had transpired,</p> <p>25 what was he referring to? 12:59:58</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 A. Like the biggest part of Jeannie</p> <p>3 Jaeger being attached by this individual.</p> <p>4 Q. Now the question I have is at this</p> <p>5 time when you showed Fiorillo the 13:00:06</p> <p>6 investigative file and he made those comments,</p> <p>7 did he make any comments to you that it was</p> <p>8 his belief that you were covering up</p> <p>9 something?</p> <p>10 A. No. 13:00:16</p> <p>11 Q. With regard to Snyder did you show</p> <p>12 him the investigative file?</p> <p>13 A. Yes.</p> <p>14 Q. Did he review it?</p> <p>15 A. Yes. 13:00:22</p> <p>16 Q. Where did you show it to him?</p> <p>17 A. In the police station.</p> <p>18 Q. Where did he review it?</p> <p>19 A. He was sitting at Chief Paradiso's</p> <p>20 desk. 13:00:30</p> <p>21 Q. What comment if any did he make to</p> <p>22 you concerning his review of the investigative</p> <p>23 file?</p> <p>24 A. I don't really recall to tell you</p> <p>25 the truth. 13:00:36</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>
Page 930	Page 931
<p>1 Hesse</p> <p>2 Q. Did he make any reference to</p> <p>3 his -- did he make any statement that led you</p> <p>4 to believe that he believed that you were</p> <p>5 covering up something? 13:00:42</p> <p>6 A. Absolutely not, no.</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 MR. NOVIKOFF: I have nothing</p> <p>9 further.</p> <p>10 MR. CONNOLLY: I have one 13:00:57</p> <p>11 question.</p> <p>12 MR. NOVIKOFF: Don't open the</p> <p>13 door.</p> <p>14 EXAMINATION BY</p> <p>15 MR. CONNOLLY: 13:01:00</p> <p>16 Q. Earlier Mr. Goodstadt had asked</p> <p>17 you if you had any proof that plaintiffs or a</p> <p>18 plaintiff may have made blog entries. Do you</p> <p>19 recall being asked that question?</p> <p>20 A. Yes. 13:01:18</p> <p>21 Q. And what was your response?</p> <p>22 A. I had no proof.</p> <p>23 MR. GOODSTADT: Objection.</p> <p>24 Q. Did you ever form a belief based</p> <p>25 upon the contents of blog entries that one or 13:01:31</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>	<p>1 Hesse</p> <p>2 more plaintiffs may have made blog entries?</p> <p>3 A. Yes.</p> <p>4 MR. CONNOLLY: Nothing further.</p> <p>5 MR. GOODSTADT: You expect me not 13:01:45</p> <p>6 to ask him which entries; there is now a</p> <p>7 new allegation that plaintiffs have made</p> <p>8 entries. I don't see how I can't ask him</p> <p>9 the question.</p> <p>10 MR. CONNOLLY: Go off the record. 13:02:14</p> <p>11 THE VIDEOGRAPHER: The time is</p> <p>12 1:03, we are going off the record.</p> <p>13 (Recess taken.)</p> <p>14 THE VIDEOGRAPHER: The time is</p> <p>15 1:07, we are on the record. 13:06:28</p> <p>16 MR. GOODSTADT: In lieu of an</p> <p>17 agreement that all parties have reached</p> <p>18 in response to -- strike that.</p> <p>19 In connection with the last</p> <p>20 question that Mr. Connolly asked 13:06:39</p> <p>21 Mr. Hesse about his belief as to whether</p> <p>22 any of the plaintiffs posted on the blog,</p> <p>23 we have agreed that plaintiffs will serve</p> <p>24 interrogatories requesting the identity</p> <p>25 of which blog posts Mr. Hesse believes 13:06:54</p> <p>TSG Reporting - Worldwide (877) 702-9580</p>

<p style="text-align: right;">Page 932</p> <p>1 Hesse</p> <p>2 were posted by the plaintiffs, or</p> <p>3 individually which plaintiff, and the</p> <p>4 basis of his belief that it was the</p> <p>5 plaintiff that he identifies who posted 13:07:06</p> <p>6 the blog.</p> <p>7 MR. NOVIKOFF: Fine.</p> <p>8 MR. CONNOLLY: So agreed.</p> <p>9 MR. GOODSTADT: And Mr.</p> <p>10 Novikoff is -- 13:07:15</p> <p>11 MR. NOVIKOFF: Well if those are</p> <p>12 the only two questions that you are going</p> <p>13 to pose to him I don't feel -- I don't</p> <p>14 think then I need to serve anything.</p> <p>15 MR. CONNOLLY: I take it we are 13:07:28</p> <p>16 done.</p> <p>17 MR. GOODSTADT: We are.</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 (Continued on next page.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 933</p> <p>1 Hesse</p> <p>2 1:09. We are off the record.</p> <p>3 (Time noted: 1:10 p.m.)</p> <p>4</p> <p>5 <u>GEORGE HESSE</u></p> <p>6</p> <p>7 Subscribed and sworn to before me</p> <p>8 this ____ day of _____, 2009</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>
<p style="text-align: right;">Page 934</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3 STATE OF NEW YORK)</p> <p>4 : ss.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6</p> <p>7 I, Philip Rizzuti, a Notary</p> <p>8 Public within and for the State of New</p> <p>9 York, do hereby certify:</p> <p>10 That GEORGE HESSE, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn by me and that such</p> <p>13 deposition is a true record of the</p> <p>14 testimony given by the witness.</p> <p>15 I further certify that I am not</p> <p>16 related to any of the parties to this</p> <p>17 action by blood or marriage, and that I am</p> <p>18 in no way interested in the outcome of this</p> <p>19 matter.</p> <p>20 IN WITNESS WHEREOF, I have</p> <p>21 hereunto set my hand this 27th day of</p> <p>22 August, 2009.</p> <p>23</p> <p>24 <u>PHILIP RIZZUTI</u></p> <p>25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>	<p style="text-align: right;">Page 935</p> <p>1</p> <p>2 ----- I N D E X -----</p> <p>3 WITNESS EXAMINATION BY PAGE</p> <p>4 GEORGE HESSE Mr. Novikoff 807, 925</p> <p>5 Mr. Baptiste 839</p> <p>6 Mr. Goodstadt 841</p> <p>7 Mr. Connolly 930</p> <p>8</p> <p>9 ----- INFORMATION REQUESTS -----</p> <p>10 DIRECTIONS: None</p> <p>11 RULINGS: None</p> <p>12 TO BE FURNISHED: None</p> <p>13 REQUESTS: None</p> <p>14 MOTIONS: None</p> <p>15</p> <p>16 ----- EXHIBITS -----</p> <p>17 Hesse Exhibit 29, complaint, 807</p> <p>18 Hesse Exhibit 30, blog posting, 883</p> <p>19 P 962 to P 1265,</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">TSG Reporting - Worldwide (877) 702-9580</p>

*** ERRATA SHEET ***

NAME OF CASE: CARTER VS. OCEAN BEACH

DATE OF DEPOSITION: August 17, 2009

NAME OF WITNESS: GEORGE HESSE

PAGE LINE FROM TO

GEORGE HESSE

Subscribed and sworn to before me
this ____ day of _____, 2009.

(Notary Public) My Commission Expires:
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